

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DIANTI EARLY,)
)
Plaintiff,)
) CIVIL ACTION NO.:
v.) 1-22-CV-00816-SCJ
)
OFFICER JOHN MAYS,)
Individually, as an officer)
of the UNION CITY POLICE)
DEPARTMENT,)
)
Defendant.)

REMOTE DEPOSITION OF
JUSTIN OMARI WHITEHEAD

Friday, January 6, 2023
2:01 p.m.

Cathey H. Sutton, CCR B1354
Certified Court Reporter

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[2]

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This 6th day of January, 2023.

Cathey H. Sutton, CCR B1354

[3]

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[5]

1 (All the participants joined the
2 deposition via Zoom.)

3 JUSTIN OMARI WHITEHEAD,
4 having been duly sworn, was examined and deposed as
5 follows:

6 MR. BENNETT: This will be the deposition
7 of Mr. Justin Whitehead, taken pursuant to
8 Notice and agreement of counsel for all
9 purposes under the civil practice, or the
10 Federal Rules of Civil Procedure. Is it okay
11 to have the same stipulations as to objections?

12 MS. MILLER: Yes.

13 (Counsel agreed that the stipulation
14 governing the taking of the deposition of
15 CHIANTI SUNKRIA BROWN will likewise govern the
16 taking of the deposition of JUSTIN OMARI
17 WHITEHEAD.)

18 EXAMINATION

19 BY MR. BENNETT:

20 Q Mr. Whitehead, have you ever had a
21 deposition before?

22 A No, sir.

23 Q I want to give you the quick rundown of
24 what our ground rules are. It won't take too long.
25 First, if I ask you a question if you can please let

[6]

1 me finish my question before you answer so that way
2 we're not talking over one another. Can you do that
3 for me?

4 A Yes, sir.

5 Q Thank you. As well as I know in normal
6 conversations we do a lot of head nods, uh-huhs,
7 things of that nature. Because we are taking it
8 down and we have a court reporter taking everything
9 you say down, please try to use yes or no answers to
10 the best of your ability. Okay?

11 And then if you do need to take a break
12 for any reason please let me know; that's okay.
13 We'll make sure that you have the opportunity to do
14 that. All I ask is if we have a question pending
15 you answer the question first before you take that
16 break. Okay?

17 A Okay.

18 Q And I know we're here in Zoom, and I can
19 tell that you're there with Ms. Miller at her
20 office. So we know the location that you're there.
21 And, of course, other than Ms. Miller is there,
22 anybody else in the room with you?

23 A No, sir.

24 Q If I can I'm going to ask you a couple of
25 quick questions. I don't mean anything by it;

[7]

1 they're just background. They might sound a little
2 invasive, but it's just to make sure that you're
3 able to give testimony here today. Are you under or
4 have you taken any medications today that would
5 affect your ability to provide your testimony?

6 (Reporter interruption for clarification.)

7 THE WITNESS: No, sir.

8 MS. MILLER: Speak louder.

9 Q (BY MR. BENNETT) Have you consumed any
10 alcohol or any narcotics today that would affect
11 your ability to give truthful testimony?

12 A No, sir.

13 Q Are you under any stressful circumstance,
14 such as a sick family member, medical diagnosis, or
15 anything of that nature that would affect your
16 ability to give testimony today?

17 A No, sir, no, sir.

18 Q Thank you. If I could, would you please
19 state your full name for the record.

20 A Justin Omari Whitehead.

21 Q Sir, are you married?

22 A No, sir.

23 Q And how old are you, sir?

24 A Twenty-three.

25 Q And what's the highest level of education

[8]

1 you have?

2 A High school diploma. High school diploma.

3 Q And what high school did you graduate
4 from?

5 A Hapeville Charter Career Academy.

6 Q And are you currently employed, sir?

7 A No, sir.

8 Q Do you have any prior military service?

9 A No, sir.

10 Q Let me ask you, have you ever been
11 arrested before?

12 A Yes, sir.

13 Q If you could when, how many times have you
14 been arrested?

15 A Once, sir.

16 Q And when did that arrest occur?

17 A I think it was October, October last year
18 if I can recall.

19 Q So sometime in October '22. All right.
20 Is that case, are you still under prosecution for
21 that arrest?

22 A Can you explain to me what --

23 MS. MILLER: Is the case still open?

24 THE WITNESS: I don't, I don't think
25 it's --

[9]

1 MS. MILLER: Yes, it's still open.

2 THE WITNESS: Yeah, yeah, it's still open.
3 Yeah.

4 MS. MILLER: So I would just on his
5 behalf, since I don't represent him, ask you
6 not to ask any questions about an open case.

7 THE WITNESS: Yeah.

8 MR. BENNETT: Absolutely no problem. I
9 wasn't going to go into it. That's why I
10 wanted to make sure I asked if it was open
11 first.

12 MS. MILLER: Thank you, Mr. Bennett.

13 Q (BY MR. BENNETT) No problem. I will ask
14 you one question just about it. What county is the
15 case pending in?

16 (Reporter interruption for clarification.)

17 THE WITNESS: In Douglas County.

18 Q (BY MR. BENNETT) It is our understanding,
19 and we're going to turn our attention just to the
20 incident we're here about today. As I understand
21 you're the cousin of Dianti Early, correct?

22 A Yes.

23 Q And there was an incident that was about,
24 occurred on March 1st, 2020 where Mr. Early was hit
25 by a Union City police officer's car. Do you

[10]

1 remember that incident, sir?

2 A Yes, I do, sir.

3 Q Let's start at the very beginning of that
4 day. When did you first meet up with Dianti?

5 A I don't remember when I met up with him
6 specifically. I just remember like where I went,
7 you know, everything went, started to occur.

8 Q Do you guys remember where you were coming
9 from prior to seeing the police car --

10 A At -- I'm sorry.

11 Q -- I'm sorry -- prior to you seeing the
12 police car at the gas station?

13 A We were actually going to my house.

14 Q And do you remember where you were leaving
15 from to go to your house?

16 A I don't. I was actually going to get some
17 clothes so, yeah, I don't.

18 Q You guys were in a black Jeep Cherokee
19 that day. Do you know who owned that vehicle?

20 A Dianti.

21 Q Did you ever discuss with him how he came
22 to be in possession of that vehicle?

23 A He bought it. I recall he bought it.

24 Q Were you present with Dianti when he
25 purchased the vehicle?

[11]

1 A No, sir.

2 Q Did you ever see any bills of sale or any
3 documents related to the ownership of the vehicle?

4 A No, sir.

5 Q Prior to the incident that took place
6 between the officer and Dianti, how long were you
7 with Dianti?

8 A Can you repeat that again?

9 Q How long were you with Dianti prior to the
10 incident that we're about to talk about?

11 A So before the incident?

12 Q Yes.

13 A Like, I can say like two days, two days.

14 Q When you say you were with him for two
15 days prior, during that time did he have the black
16 Jeep with him?

17 A I don't remember. I can't remember.

18 Q Do you remember what you and Dianti were
19 doing the two days prior to the incident?

20 A We was going to studios because we both
21 are like interested in music so studios. And
22 basically like just hanging out together, you know,
23 going to places, eat food, movies, you know.

24 Q During that time how did you guys get
25 around?

[12]

1 A I was actually with, with him.

2 Q In that time were you guys, when you were
3 driving around to go to different places were you in
4 his vehicle?

5 A Yes. Not the, the specific vehicle I
6 think you're referring to.

7 Q What vehicle were you in, sir?

8 A I can't recall what vehicle. It wasn't
9 the Jeep though. It wasn't that black Jeep you're
10 referring to.

11 Q Do you know whose vehicle that you guys
12 were using the two days prior to the incident was?

13 A Can't recall.

14 Q Tell me the first time that you saw the
15 Union City police car involved in this case.

16 A I was, we was parked in front of the store
17 facing the gas pump, just sitting there for I can
18 say like two, three minutes. And the officer pulled
19 up to the gas pump in front of us, and I just, I
20 just thinking like why did the police, you know,
21 pull right there in front of us and, you know,
22 there's other gas pumps. I'm just having thought
23 like what's going on.

24 My cousin gets back in the car; he said
25 the same thing, like what's going on because we

[13]

1 don't know what's going on. And we, we pull out; he
2 followed us. Oh, that's my personal. I'm going too
3 far. I'm sorry.

4 Q That's okay. I was about to ask you that
5 next question. So you guys notice the vehicle.
6 When you have the conversation with Dianti about
7 seeing the police car there, was that inside the
8 vehicle while you guys were outside the gas station?

9 A Can you repeat that?

10 Q When you guys, when you were talking about
11 that discussion you and Dianti had about seeing the
12 police vehicle, were you guys inside the car outside
13 the gas station?

14 A Yes. He just getting in the car. He had
15 the door open, and he act like why the police are
16 right there.

17 MS. MILLER: I'm sorry. He just answered.
18 Can we pause for one second to tell my
19 assistant to grab my mom?

20 MR. BENNETT: Absolutely.

21 (A brief recess was taken at 2:15 p.m.)

22 Q (BY MR. BENNETT) So as you guys entered
23 your vehicle outside the gas station you were
24 heading back to go to your apartment, correct?

25 A Yes, sir.

[14]

1 Q And I think you said as you were driving
2 back you noticed the police car behind you, correct?

3 A Yes. He was trailing, trailing us.

4 Q And your apartment at the time, was it the
5 apartment at Shannon Lakes?

6 A Yes, sir.

7 Q How long had you lived in Shannon Lakes
8 prior to this incident?

9 A I can't say a specific number, but like we
10 moved to Union City before like ninth grade. And I
11 did my whole four years there so I can't recall,
12 like.

13 Q It's been a long time?

14 A Yeah. A long time, like over five, four
15 or five years.

16 Q And Dianti has visited you at that
17 apartment quite a bit, correct?

18 A Yes, sir.

19 Q So as you guys entered into the apartment
20 complex, Officer Mays, who's the defendant in this
21 case, he was still following you, correct?

22 A Yes, sir.

23 Q And you guys are heading towards your
24 apartment. Do you remember how fast Dianti was
25 driving?

[15]

1 A No, sir. It was slow. It was very slow
2 to, but, no, sir, I don't.

3 Q Do you recall the first time you saw the
4 officer turn on his blue lights?

5 A We were by the rent office I, I believe,
6 and the rent office, yeah, we, we were by the rent
7 office. And the rent office is like deep, actually
8 by my house almost, so.

9 Q That's when you saw the officer activate
10 his blue lights to try to stop you, correct?

11 A Yes.

12 Q And did Dianti stop the vehicle when the
13 blue lights turned on?

14 A No, sir.

15 Q And he continued to drive his vehicle past
16 your apartment; isn't that true?

17 A Yes, sir.

18 Q Now, after you continued past your
19 apartment did you get out of the vehicle at that
20 point in time?

21 A You -- can you repeat that?

22 Q Walk me through in your own words -- and
23 we can break it down afterwards -- but walk me
24 through what happened after, immediately after the
25 officer turned on his blue lights. What happened

1 next?

2 A Okay. We passed my house, went up the
3 hill. We wasn't going very fast. It's speed bumps.
4 So go down the hill, and I get the thought that
5 we're fixing to hop out. We hop out and -- no. He
6 hops out first. And then when he hops out it was a
7 split second so when I looked up I hit a tree, like
8 the car hits a tree. So he hopped out; the car hit
9 the tree, and, you know, I get out.

10 Q When Dianti got out of your vehicle the
11 car was still moving, correct?

12 I'm sorry. I didn't hear your answer.

13 A Yes, sir.

14 Q Dianti did not put the car into park;
15 isn't that true?

16 A No, sir.

17 Q That's a weird question because you said
18 no. So did he put the vehicle into park before he
19 jumped out?

20 A Oh, no, sir.

21 Q And you said that you were still in the
22 vehicle when you hit the tree. When that occurred
23 did you have any injuries, sir?

24 A No, sir.

25 Q And as you were in the vehicle where were

[17]

1 you looking at? What direction were you looking
2 when Dianti jumped out of the car?

3 A I was looking his direction at first.
4 Then the car, the car was still in motion so I
5 turned when he did, he got out. I looked straight,
6 and I seen the tree.

7 Q After he gets out of the car -- I just
8 want to be clear -- after he got out of the car
9 you're looking at the tree in front of you, correct?

10 A Yes.

11 Q How soon after you hit, the car hit the
12 tree did you get out of the vehicle?

13 A It was like a whole 59 seconds. A whole
14 minute, it took me a whole minute to like snap back.

15 Q You're in the car for a whole minute after
16 the entire incident, or after you hit the tree?

17 A Yes, sir.

18 Q Did you lose consciousness while you were
19 in the vehicle?

20 A No. It was like a quick blackout, a long
21 blink, but it was quick.

22 Q And what was the first thing you did after
23 the car hit the tree?

24 A I opened the door, and I moved all the
25 tree, like the bushes out the way. And I didn't see

[18]

1 nobody so I took off running.

2 Q And from our understanding when you look
3 at the parking lot area that you guys were in, if
4 you're facing from the direction that you came from
5 on your left is the little lake that's in the middle
6 of the apartment complex --

7 A Uh-huh.

8 Q -- and on the right-hand side is the wood
9 line?

10 A Uh-huh.

11 Q When you got out of the car which way did
12 you go? Did you run towards the lake, or did you go
13 towards the wood line?

14 A So when the car hit the tree, so now it's,
15 the lake is behind the car so the car facing the
16 tree now and the lake is behind the car. So I get
17 out facing like the building, like basically like
18 the way we came in.

19 Q So you're facing back towards the way that
20 you guys came in?

21 A Yes, sir.

22 Q And which way did you, you go I guess?
23 Did you go back the way you guys came in, or did you
24 go back further like you were going in the path of
25 the vehicle?

[19]

1 A The, the way we came in.

2 Q What did you see when you were running
3 back the way that you came in?

4 A I took three or four, four or five steps
5 and turned around, like just turned my head. I was
6 still in a jogging motion of running, and I seen
7 Dianti like trying to get up. But to me it looked
8 like his leg was broken. That's what I thought
9 happened. But he couldn't; he just collapsed on the
10 ground. Like he was trying to get up, but he
11 couldn't get up.

12 Q So did you see Dianti with a broken leg in
13 your mind?

14 A It was like when he was trying to get up
15 it was dangling, like he couldn't put it on the
16 floor.

17 Q When you saw that did you stop, or did you
18 continue to run from the area?

19 A Keep going.

20 Q Now, as you were running did you go
21 directly back to your apartment, or where did you
22 go?

23 A I went directly to my apartment.

24 Q And from your apartment could you observe
25 anything that was transpiring between Dianti and the

1 officer?

2 A No, I can't.

3 Q What was the address for your apartment,
4 your apartment number?

5 A I don't remember. It's, yeah, I don't
6 remember. It's the Park at Netherley; that's the
7 name of the apartments now, but I don't know the
8 unit, the apartment number.

9 Q You don't recall the apartment number that
10 you lived in?

11 A Yeah, yeah, I don't.

12 Q Does your mom still live in that, at that
13 apartment?

14 A No, sir.

15 Q When did you move away from that
16 particular apartment complex?

17 A I can't recall that. I think that year
18 2021 or something.

19 Q And did you know who would be on the lease
20 for the apartment? I'm sorry. It looked like you
21 said something but it --

22 A My mother, my mother.

23 Q So going back to the incident, other than
24 seeing Dianti being on the ground or not being able
25 to get up, did you see anything else?

[21]

1 A No, sir.

2 Q So you never saw what took place between
3 Dianti coming into contact with the vehicle
4 directly, correct?

5 A Yes, sir. No, no, sir. I'm sorry.

6 Q No, no, it's one of those weird lawyer
7 questions sometimes.

8 A Yeah, I just, I just got tricked by -- I'm
9 sorry.

10 Q No, it's okay. I just want to make sure
11 I'm clear. You did not personally see Dianti being
12 struck by the vehicle, correct?

13 A Oh, no, sir.

14 Q So in terms of what actually took place of
15 how the officer came into contact with him, you
16 wouldn't be able to tell me anything that you, you
17 know about it?

18 A You say with him?

19 Q Right. Because you never, you didn't see
20 it so you don't know what happened?

21 A Oh, no, no, sir.

22 Q Did you talk to Dianti about what
23 happened?

24 A No, sir.

25 Q Have you had any conversations with Dianti

[22]

1 about what took place that day?

2 A No, sir. Only about a deposition, I
3 supposed to be doing this. That's the only.

4 Q Did you do anything to prepare for your
5 deposition for today?

6 A No, not really. That's why I'm kind of
7 nervous. I'm sorry if I am.

8 Q No, no, you're doing fine. I appreciate
9 you taking the time to meet with us, so. In terms
10 of -- did you ever have any conversation with
11 Dianti's girlfriend, Ms. Britain?

12 A No, sir.

13 Q Do you remember any conversation that you
14 would have with Dianti's mother on the day of the
15 incident?

16 A I think I didn't, I didn't call his
17 mother. I called his brother and told, told his
18 brother that what, what happened.

19 Q You called Dianti's brother, who then told
20 his mom?

21 A Yes. I think he, I think I -- I, I don't
22 know for sure, but I called him.

23 Q Is your cell phone number the same that
24 you would have had at the time of this incident?

25 A No, sir.

[23]

1 Q No? Do you remember what phone number you
2 had at the time of the incident?

3 A No, sir.

4 Q Do you remember what cell phone provider
5 you might have had at the time?

6 Is that a no?

7 A No, sir.

8 Q I want to go back just a little bit.
9 After you guys saw the lights you mentioned that you
10 thought you and Dianti were going to run. I want to
11 ask you, why did you feel like you needed to run?

12 A Me personally because I was afraid. It
13 was so much happening at, at the time like, and it
14 was off guard. So I was afraid personally.

15 Q You were afraid even though you were a
16 passenger of a vehicle that's about to be stopped?

17 A Yes, sir.

18 Q Have you ever been involved with any law
19 enforcement official ever using force to detain you?

20 A No, but I have had an incident with law
21 enforcement pulling a firearm on me.

22 Q Tell me, when did that incident occur?

23 A I can't remember when, but, yeah, I can't
24 remember when, but I, I can, but I can't remember
25 when.

[24]

1 Q Was it in 2020?

2 A Yeah. It was, it was around that time. I
3 was, I was out of high school around, I graduated
4 high school in 2018 so I was out of high school.
5 And, yeah, it was around that time. I was older.

6 Q And where did the incident occur?

7 A I was in Gwinnett County at a cousin's
8 birthday, a little cousin's birthday party at a
9 hotel. I think it was a Stay Inn, a Suite Inn,
10 something like that, in Gwinnett County. It's a
11 Dick's Sporting Goods by the hotel so it's
12 somewhere. I remember.

13 Q Do me a favor. Tell me what took place
14 that caused that encounter with law enforcement.

15 A Okay. So it was a, it was a altercation
16 with my cousin's, my little cousin's mom and her
17 boyfriend. And I guess the boyfriend had like put
18 his hands on her somehow some way, and the police
19 was called. But from my understanding it wasn't
20 that serious because everybody, you know, escalated,
21 you know, like de-escalated the situation and
22 everything. So I guess the police were called later
23 in that process. And the police came later, like
24 when everybody was, you know, cool and cooled down
25 and he'd done apologized and everything.

[25]

1 And I was actually outside at the time
2 with some of my other cousins. And I was trying to
3 catch the door to the hotel. I remember just trying
4 to get back inside to get something. And then when
5 I got in there, you know, I caught the door as
6 somebody was coming out the door. You know, you
7 need a keypad to get into a hotel suite door or
8 anything like that. I'm just here for a birthday
9 party so I didn't have a keypad or anything.

10 So I catch the door as somebody coming
11 out. I ask them can they hold the door for me and
12 like jam the door. Once I see, once I go to my
13 cousin's, like the hotel room I automatically hear
14 hey, stop, you, stop. And it was behind me. So
15 when, when I turn around I see him. He's running up
16 on me, but at the same time he had his firearm in
17 his hand. I can't see his eyes; he got sunglasses
18 on his face, everything.

19 So he just, he said don't move, don't
20 move. And at this point like I, I, I did not move.
21 I mean I tried, I knocked on the door. And he said
22 don't do that, don't. I'm warning you; don't do
23 that. I hit, I hit the door two times because I got
24 scared; I panicked. I hit it those two times to try
25 to get somebody out there. He was still like trying

[26]

1 to shoot. And he stood with the firearm on me for
2 approximately like seven minutes until my family
3 came out there. And his partner was like this ain't
4 the person, you know.

5 Q After they cleared that you weren't the
6 person did they let you go?

7 A Oh, yes. They never detained me. He just
8 had his firearm on me because he thought I was
9 trying to get back into the hotel some, I don't
10 know. That's what he told his partner.

11 Q Was anyone arrested?

12 A No, sir.

13 Q Do you remember what department that it
14 was that came out there?

15 A It was, I think it was Gwinnett County. I
16 don't know what's the name of that department, but
17 it was Gwinnett.

18 Q Have you had any other encounters with any
19 law enforcement official?

20 A No, sir.

21 Q So would you agree with me that based on
22 your experiences if you do what the officer asked,
23 you aren't at risk of getting injured, right?

24 A Can you repeat that?

25 Q You would agree with me that based on your

[27]

1 own personal experiences that when you did what the
2 officer asked nothing happened afterwards; isn't
3 that a true statement?

4 A The officer that I'm referring to?

5 Q Yes, sir.

6 A Yes, after a couple of minutes. Like he
7 was in fire mode.

8 Q But after they were, after he was able to
9 figure out what the situation was, nothing happened?

10 A Oh, yeah. I mean yes, sir.

11 Q Again, so while you're in the vehicle with
12 Dianti did you think you did anything wrong?

13 A No, sir.

14 Q And you're not driving the car, correct?

15 A No, sir.

16 Q Do you have a driver's license?

17 A No, sir.

18 Q At the time of the incident did you ever
19 have a driver's license?

20 A No, sir.

21 Q Have you ever been in a car that's been
22 pulled over?

23 A Yes, sir.

24 Q And I imagine without a driver's license
25 you weren't driving that vehicle at that time?

[28]

1 A No, sir.

2 Q And when that car got pulled over did
3 anyone get out to run from the police?

4 A No, sir.

5 Q Did anything happen in that incident?

6 A I think it was a search.

7 Q Okay.

8 A Or that's what it's called.

9 Q Was anyone arrested at that period of
10 time?

11 A No, sir.

12 Q Was anyone injured by that encounter with
13 the police officer?

14 A No, sir.

15 Q Did you ever have a conversation with
16 Dianti about why he chose to run from the police?

17 A No, sir.

18 Q So you don't know why someone would decide
19 to run without knowing what the officer was even
20 trying to stop you guys for, right?

21 A No, sir.

22 Q Did you hear or were you present for any
23 conversations between the officer and Dianti at the
24 scene of the incident?

25 (Reporter interruption for clarification.)

[29]

1 THE WITNESS: No, sir.

2 Q (BY MR. BENNETT) And I want to ask you the
3 one question that's kind of been burning through all
4 of this with me is when you saw Dianti on the ground
5 why didn't you stop to even check to see if he's
6 okay or offer any kind of assistance.

7 A I don't know. Just, just in the moment I
8 guess. I don't know.

9 Q At the time of the incident did you have a
10 cell phone with you when the incident occurred?

11 A I'm not sure. Not sure.

12 Q When you got out of the car did you have
13 anything with you?

14 A No, no.

15 Q After the incident did you ever visit
16 Dianti at the hospital?

17 A No.

18 Q That's a no?

19 A No.

20 Q And did you ever go with Dianti to any
21 medical appointments?

22 A No, sir.

23 Q Or did you ever assist with any of his
24 therapy treatments?

25 A No, sir.

[30]

1 Q Have you ever observed Dianti perform any
2 kind of exercises for his ankle to try to strengthen
3 it up?

4 A You said so seen?

5 Q Yes. Have you ever seen him doing any
6 kind of exercises at the house, particularly for his
7 ankle?

8 A I can't say exercise, but, you know, I
9 done seen him trying to work it, you know, after
10 he -- sometimes his leg might get in pain, and I
11 seen that his leg might get in pain or something and
12 he might have to stand up or walk, you know, or
13 stretch it out.

14 Q How often do you hang out with Dianti?

15 A A lot.

16 Q Since this accident has he, what are some
17 of the things that you guys normally do when you
18 guys hang out?

19 A We play basketball. We still make music
20 together. Just keep each other company.

21 Q How often do you guys play basketball?

22 A Every, try to get, get a hoop session in
23 every week. Well, a basketball session in every
24 week.

25 Q Now, when you guys play do you guys play

[31]

1 pickup games, or is it just you and Dianti playing?

2 A It's all competition, pickups, one on one.

3 Q That's nice. In terms of -- where do you
4 guys normally play?

5 A So we go mostly like, like Decatur, Flat
6 Shoals area. Those where most of the free courts
7 are at, basketball courts over there.

8 Q When you guys are playing do you guys
9 doing like the full court, five on five at times?

10 A Yes. I might, we might have some other
11 friends with us.

12 Q When was the last time you guys did that?

13 A Last week. Like, yeah, as a matter of
14 fact last week I didn't go, but last week I was
15 supposed to go.

16 Q When was the last time you and Dianti --

17 A The week, the week before last week.

18 Q And how long were you guys there playing
19 basketball?

20 A Up to five, five, six hours.

21 Q And are you guys playing constantly
22 through that five to six hours?

23 A He might not, but me and the rest of my
24 peers will.

25 Q I'm just going to ask because I'm no older

[32]

1 brother, but are you over there dunking on, on the
2 net, or? I'm just trying to figure out how you guys
3 are doing it.

4 A I mean, okay, I, you know, a whole lot to
5 speak on my game, I just let it show.

6 Q We'll leave that alone. I won't say that
7 you posted them up or anything. In terms of this
8 incident is there anything that you can think of
9 that we haven't talked about that you remember
10 happening?

11 A No, no, sir.

12 Q Had you had any discussions with Dianti
13 about his mental health since this accident?

14 A I did ask him about the leg, his leg one
15 time. I don't know if it's his leg or his ankle; I
16 really don't know. But I did ask him, like is it
17 still hurting, you know. He's like yeah, it get to
18 aching sometime.

19 Q I know you mentioned that you guys also
20 went to a, you guys would go to the studio. Have
21 you guys recorded any music or anything recording
22 this particular incident?

23 A Regarding -- what you mean? Like, I
24 mean.

25 Q That might have discussed this incident?

[33]

1 A Oh, no, no, sir.

2 Q Prior to this incident taking place on
3 March 1st, 2020 compared to now, how would you
4 describe Dianti's demeanor with you?

5 A Just the same I guess. I can't, I, I, I
6 can't answer that. I don't know. That's a question
7 that I think he can answer.

8 Q But how about your encounters with him,
9 have you noticed anything different?

10 A Oh, with him?

11 Q Yeah.

12 A No, not really. He, not really.

13 Q While you guys are meeting up and talking
14 does he ever talk to you about any of the police
15 cases that might be heard in the news?

16 A As far as, as far as him, or?

17 Q Not him but anything over the news, such
18 as the George Floyd incident or any kind of law
19 enforcement, social justice issues.

20 A Oh, yeah. Yes, we have had conversation
21 about it.

22 Q Tell me about those. What conversations
23 have you had?

24 A We both just have the same opinion, like
25 it's wrong. It's wrong. Even when they burned the

[34]

1 Wendy's down like, we was like hey, can't blame
2 them. It was kind of like me and his, you know,
3 because did, not us specifically but, you know, as
4 far as the black community, how the black community
5 feels.

6 Q How often would you say you guys have had
7 a conversation about those kind of issues?

8 A Really every time they occur. It's just a
9 eye-opener when you talk to each other about that
10 because it, it is like a warning, you know. He
11 basically telling me hey, when you get in front of
12 the police don't do this, don't do that. It's
13 basically like coaching.

14 Q Do you recall ever having those kind of
15 discussions prior to this incident?

16 A Not them kind of like, not, not that,
17 well, we had one conversation about the, the Wendy's
18 being burned down, but that was just it.

19 Q Okay.

20 A That I can recall.

21 Q I'm talking about while you guys were in
22 high school or prior to 2020, okay, do you guys
23 ever remember having any of these conversations
24 about social justice issues, alleged police
25 brutality?

[35]

1 A Not, I can't recall those.

2 Q As you were running -- and I want to go
3 right back to just one quick thing -- as you were
4 running by the officer and Dianti, did the officer
5 say anything to you?

6 A No, sir.

7 Q Have you spoken to any other, any Union
8 City police officer about the incident between
9 Officer Mays and Dianti?

10 A No, sir.

11 Q One last question. The studios that you
12 guys were at, where was that located?

13 A I can't recall. It's, we went to more
14 than one so I can't recall.

15 Q If you could can you tell me what kind of
16 cities or what areas they were, even if you can't
17 recall the exact location?

18 A Buckhead area, like out that way, city.
19 Georgia State area, you know, Peachtree, around the
20 same area, around there.

21 Q Did you guys spend any time in like the
22 south Fulton, City of South Fulton or Palmetto or
23 south of I-20?

24 A Can't recall.

25 Q During this time did you meet up with

[36]

1 anybody else other than Dianti those two days that
2 you were with him before the accident? Was there
3 anybody else that you met up with?

4 A Met with a couple of his friends. I think
5 that's it.

6 Q At that time did any of his friends ever
7 use that black Jeep that you guys were driving?

8 A No, sir.

9 Q Do you remember any of the friends' names
10 that you met up with?

11 A No. Wait. I think one of his name is
12 Will.

13 Q Do you remember Will's last name?

14 A No. I just got Will.

15 MR. BENNETT: I think other than that, I'm
16 going to say, Mr. Whitehead, I really do
17 appreciate your time. I don't know if
18 Ms. Miller has any questions or not, but I
19 really do appreciate your time today.

20 MS. MILLER: I actually do have a couple
21 of questions for you. Can you hear, Madam
22 Court Reporter, because I'm a little bit
23 further away from the computer? Can you hear
24 me okay?

25 THE REPORTER: I can.

1 EXAMINATION

2 BY MS. MILLER:

3 Q You described in your testimony that after
4 the vehicle that you were riding in hit the tree
5 that you sat there for a minute or 59 seconds. Do
6 you recall saying that?

7 A Yes.

8 Q Make sure you speak up.

9 A Yes, ma'am.

10 Q Did you have a stopwatch that you were
11 looking at?

12 A No.

13 Q Did you have a timer?

14 A No.

15 Q Were you counting?

16 A No.

17 Q So when you say it was one minute or 59
18 seconds, is that a guess about how much time it was?

19 A It kind of is. Yes, it is.

20 Q So you don't know with precision exactly
21 how much time you were sitting in the vehicle?

22 A Yes, I don't.

23 Q You also talked about the incident in
24 Gwinnett. Do you remember that?

25 A (Witness nods head.)

[38]

1 Q And Mr. Bennett asked you that after the
2 officer, after you did what the officer said,
3 nothing happened to you. Do you remember him saying
4 that?

5 A Yes, ma'am.

6 Q But let's back up to before he figured out
7 what was going on, he being the officer. You
8 described that he had his gun pointed at you,
9 correct?

10 A Yes, ma'am.

11 Q And where on your body was the gun
12 pointed?

13 A It was actually like pointing toward my
14 chest.

15 Q And you said he had sunglasses on?

16 A Sun, the police, like the sport baseball
17 like looking glasses.

18 Q So you were able to see his eyes through
19 the glasses?

20 A No, ma'am.

21 Q In his demeanor, the sound of his voice,
22 did he seem like he was angry?

23 A Yes, ma'am, very angry.

24 Q What did you think might happen to you
25 when that officer was standing in front of you with

[39]

1 his gun pointed at your chest very angry?

2 A So I was even scared to move because of
3 how he was like trying to handle the situation.
4 Like I couldn't move. I felt like if I would have
5 took a step I would have got shot several times.

6 Q Did you think if you got shot several
7 times you might die there in that hotel?

8 A Yes, ma'am.

9 Q So in that moment when you're having this
10 interaction with this officer you're fearing for
11 your life?

12 A Yes, ma'am.

13 Q Okay. You talked about, you were asked
14 questions about who you talked to in connection with
15 your deposition today. Do you remember those
16 questions?

17 A Yes.

18 Q I want to go back to before there was any
19 deposition, before there was any lawyers involved,
20 back to sort of between the time that Dianti got
21 hurt and let's say the time that this lawsuit
22 started, back in the beginning. Dianti, did Dianti
23 tell you that he got hurt by the police?

24 A He didn't. I kind of like seen it, so.

25 Q So he never said anything to you about

[40]

1 what happened to him in the apartment complex?

2 A No, no.

3 Q You've never heard him talk about his
4 injuries and what happened in the apartment complex?

5 A Oh, yeah, I heard him talk about injuries.
6 I didn't know -- no, he never talked about like what
7 happened because I was, you know, but his injuries,
8 yeah.

9 Q What has he told you about his injuries?

10 A Like his, his leg in pain, you know, his
11 leg hurts. It be aching and stuff like that.

12 Q You described that sometimes when he gets
13 up he kind of has to shake his leg out or stretch
14 his leg; he can't really move it that well. But
15 then you also described y'all playing basketball all
16 the time. Okay? So when in connection with him
17 playing basketball with you has he talked about his
18 leg being hurt?

19 A All the time. Like, like, like I said,
20 like I told Mr. Bennett, he, like he, we'll go the
21 whole four, five hour, and he ain't going to go the
22 whole four, five hours.

23 Q So when you say we will go a whole four,
24 five hours, you're talking about you and your other
25 friends?

[41]

1 A Yes.

2 Q What is Dianti doing while you guys are
3 playing for a whole four, five hours?

4 A He'll play a game, and, you know, the leg
5 problem might be in effect. And then he'll try to
6 walk it off. You know, like while we're playing
7 another game he will try to walk it off, exercise,
8 do whatever he can to try to play again, or he might
9 just call it quits, like never.

10 Q So there are times that you guys are
11 playing basketball and he's not able to play with
12 you or he has to stop because of his injuries?

13 A Yeah, all the time.

14 Q Are there times when you are going to play
15 basketball, and when you say we you mean this group
16 of friends --

17 A Yeah.

18 Q -- that he does not play with you?

19 A Repeat that.

20 Q Are there times where you guys go and he
21 does not play?

22 A Yes.

23 Q So when the times that he has gone with
24 you and he's not playing, what is he doing?

25 A Either in the car on his phone, on his

1 phone talking to somebody.

2 Q Now, you did talk to me before your
3 deposition today; is that correct? We had a
4 conversation a couple of days ago?

5 A Yes.

6 Q And you remember asking me -- do you
7 remember me asking you what happened when you guys
8 were out there at the apartment complex?

9 A Yes.

10 Q You remember kind of me, much like
11 Mr. Bennett did, me asking you to describe what
12 happened when you first saw the officer and all that
13 stuff? Do you remember that?

14 A Yes.

15 Q You used, when we were talking, the phrase
16 swallowed. Do you remember saying that phrase?

17 A Yes.

18 MR. BENNETT: Object to the form.

19 Q (BY MS. MILLER) Define for me swallowed,
20 swallowed, like you swallowed, something gets
21 swallowed. Describe for me and for the record what
22 you, why you used the phrase swallowed and what you
23 were describing.

24 A Okay. So when I, when he hopped out the
25 car the door opened, and it was like he put a foot

[43]

1 on the ground. I can't say, I'm not for sure. I
2 just know like when he put his leg out there and
3 tried to touch the ground the car kind of like just
4 swallowed him up under it. Like he went straight up
5 under the car.

6 Q When you say "the car" what car are you
7 talking about?

8 A The police car.

9 Q And so --

10 A And then that's when I looked up, like
11 when I looked up and the tree.

12 Q Then after you looked up, the car hit the
13 tree, you described that you then got out of the car
14 and took off running?

15 A Yes.

16 Q Now, once you got out of the car and took
17 off running you said you looked back and you saw,
18 what did you see Dianti doing? Did you say he was
19 trying to put weight on his leg but he couldn't?
20 Can you describe that again because it was a little
21 confusing.

22 A He was trying to get up, but he couldn't
23 get up. Like he was on one leg, trying to put
24 his -- I can see him trying to put his other leg on
25 the ground, but he couldn't. Like, like the other

[44]

1 leg couldn't touch the ground. He was just like
2 kind of like hopping, and he just collapsed. Like
3 he hopped, like I can just say like twice. I'm not
4 sure twice. I just know he tried to get up.

5 When he tried to put his foot on the
6 ground it wasn't even like you were trying to walk.
7 It was trying, like he was like trying to get up or
8 whatever he be in, trying to put his foot on the
9 ground and couldn't. And he fell, like just fell on
10 the ground.

11 Q And you described how his, seeing how his
12 foot looked?

13 A Yeah. I thought it was broken.

14 Q What was it about the physical appearance
15 of his foot that led you to believe it was broken?

16 A Because it was like couldn't, it was, it
17 was basically dangling. It wasn't touching the
18 floor. Like you know how you, a person that stands
19 up straight and you just, you can't even stand up
20 straight like that. I don't know; I don't know.

21 Q So are you saying that he couldn't put his
22 weight on it? From what you could observe --

23 A Yeah, he couldn't put his weight on.

24 Q -- he couldn't put his weight on it?

25 A Yeah. So it was just like, it's crazy.

[45]

1 Q Oh, when I spoke to you yesterday you, how
2 would you describe for the record what it was about
3 the police officer's behavior that made you fearful?
4 And I'm talking about on the day of the incident.
5 What was the officer doing that seemed unusual to
6 you, if anything?

7 A The Union City officer?

8 Q Yes.

9 A Okay. So first, first off we, we, we, we
10 wasn't doing anything. Like the day was I was
11 supposed to be going to get some clothes and, you
12 know, going back to. I still be, you know, we had
13 something going on; we know we had something going
14 on. It just wasn't that.

15 And it just like when he parked in front,
16 when he parked in front he started looking at. When
17 he looking at me he didn't take his eyes off. So
18 it's just like I'm looking. Then I try to turn my
19 head; I look away. He still looking at me so it's
20 like now, now, now I feel like I'm being targeted.
21 I can't even use the word targeted because everybody
22 feel like they might get targeted, police officer do
23 that.

24 But it just like you picking, you picking
25 at a person. And then when he followed us, he

[46]

1 followed, I'm thinking we're going to pull over
2 right there. You know, I'm thinking we're going to
3 pull over right there. He follow us all the way
4 towards my neighborhood. We hadn't even gotten in
5 my neighborhood yet.

6 And you followed us, not even hitting your
7 light, not even giving us a sign you are going to
8 pull us over. And you take, we go all the way in
9 the neighborhood to where it is I'm thinking I was
10 going to go home, he's going to follow me all the
11 way to my house. So it's just like, I don't know.
12 I thought I was just being target, we was being
13 targeted that day, or, or picked, picked on,
14 however.

15 Q Was it unusual in your experience for an
16 officer to follow a car that you were in that long
17 without putting on blue lights or a siren or
18 something?

19 A No, ma'am. When I got pulled over, when
20 Mr. Bennett asked me when I got pulled over that
21 time, they pulled us over right there like and did
22 what they had to do right there. It wasn't no
23 following. They didn't follow. We were on the
24 expressway. They didn't follow; they didn't try to
25 keep follow us, nothing. They pulled us over right

[47]

1 there. I didn't, I actually did not get why he was
2 following me. That's why I felt like we was being
3 picked, actually being picked.

4 Q You're saying it was unusual in your
5 experience for a police officer to follow you for
6 that long without putting on a blue light or a
7 siren?

8 A You say it was --

9 Q I'm asking you. Was it unusual in your
10 experience, did it seem strange --

11 A Yeah, yeah, it was strange.

12 Q Let me finish the question. Was it
13 strange to you based on your experience that the
14 police officer was staring at you, following you,
15 not putting on a siren, not putting on a blue light
16 from the gas station to the apartment complex? Was
17 that something unusual in your experience?

18 A Yes, ma'am.

19 MS. MILLER: Okay. I think that's all I
20 have.

21 FURTHER EXAMINATION

22 BY MR. BENNETT:

23 Q I have a couple of follow-up questions
24 here. In terms of that vehicle stop -- and I'm just
25 going back to your personal experience when that

[48]

1 vehicle was stopped, and you just testified that it
2 was immediate or close to being immediate, not
3 really followed -- do you know why that vehicle was
4 pulled over?

5 A It was for a, a taillight. I think the
6 taillight was out or, or something was wrong with
7 the car, like the lights.

8 Q So a taillight being out, you can see that
9 pretty quick. If you're looking at the car you can
10 see a taillight out, correct?

11 A Yes, sir, I believe.

12 Q Did that officer stop that vehicle for
13 physically seeing a taillight out on that car?

14 A Yes, I believe so.

15 Q Do you know why Officer Mays was stopping
16 the vehicle you and Dianti were in?

17 A No, sir.

18 Q If I tell you, and I'll represent to you
19 that Officer Mays stopped the vehicle because it
20 matched a description of a stolen vehicle. Do you
21 understand that?

22 A Yes, sir.

23 Q And you would agree with me that it's
24 reasonable for him to try to identify whether or not
25 that's actually a stolen vehicle --

[49]

1 A I can't speak on his behalf because I
2 don't know.

3 Q But, no. I'm just asking you your -- you
4 would agree that trying to identify a car that you
5 believe might be stolen because it matches the
6 description of a stolen vehicle would require
7 someone to make sure that he had that right before
8 he stopped you, correct?

9 A I believe so, sir.

10 Q Now, do you have any law enforcement
11 training, sir?

12 A No, sir.

13 Q Do you know how long it takes for
14 something to come back from a dispatch office?

15 A No, sir.

16 Q In terms of what Officer Mays was doing
17 while he was following your vehicle, you don't know
18 what he was doing, correct?

19 A Yeah. No, sir.

20 Q You don't know what he was doing in that
21 car?

22 A Yeah, I don't know.

23 Q So it's fair to say you don't know whether
24 or not what he was doing in that car was
25 unreasonable in the amount of time he needed to

[50]

1 follow you before initiating his lights; is that --

2 A Yes, sir.

3 MS. MILLER: Did you understand that
4 question?

5 THE WITNESS: Yeah. Can you repeat? It
6 kind of --

7 Q (BY MR. BENNETT) You answered the
8 question. I think he, I will take that as he
9 understood it.

10 A It kind of froze, but.

11 Q I'm going to ask you. It sounds like you
12 had a long conversation with counsel prior to this
13 deposition; is that fair?

14 A Who's counsel, sir?

15 Q With Ms. Miller. You guys had a long
16 conversation prior to this deposition; isn't that
17 correct?

18 A It was brief; it wasn't long.

19 Q It was brief enough where you could go
20 through all your testimony here today?

21 MS. MILLER: He answered it. He said it
22 was brief. Are you asking him about his
23 testimony today? You asked him about our
24 conversation and if it was long; he said it was
25 brief.

[51]

1 MR. BENNETT: Please don't instruct the
2 witness how to answer.

3 MS. MILLER: I'm not instructing the
4 witness.

5 MR. BENNETT: I understand the -- if you
6 have an objection please make the objection.
7 But I'm asking him --

8 MS. MILLER: Asked and answered.

9 THE WITNESS: It was brief though, sir.

10 Q (BY MR. BENNETT) You guys had a discussion
11 about the term swallowed, correct?

12 A Yes. I, I actually said that time.

13 Q Prior to this, as I was going through my
14 examination of you you never once used the term
15 swallowed. Okay? Isn't that true?

16 A Yes.

17 Q I wanted to ask you what else during your
18 conversation with Ms. Miller from beginning to end,
19 tell me what you and Ms. Miller discussed.

20 A She just asked me what happened. I told
21 her what happened. And she just told me when I do
22 this deposition just tell the truth, nothing but the
23 truth.

24 Q Did she tell you to make sure you used any
25 buzz words?

[52]

1 A No, sir. That's why I said brief, sir. I
2 didn't do nothing but tell her what happened, and
3 she told me to tell the truth.

4 Q Now, when you got into this term -- I'm
5 going to go back to this swallowed here. You
6 testified earlier that Dianti got out of the
7 vehicle, correct, as --

8 A Yes, sir.

9 Q -- it hit the tree?

10 A (Witness nods head.)

11 Q He --

12 (Reporter interruption for clarification.)

13 Q (BY MR. BENNETT) And I'm going back to the
14 time that Dianti first jumps out of the car. When
15 he jumped out of the car did you look at Dianti?

16 A Yes.

17 Q And how long were you looking at Dianti?

18 A Like a split second.

19 Q And then you turned your attention back to
20 the tree in front of you?

21 A Yes, yes.

22 Q Dianti was moving at that time, correct?

23 A By moving do you mean like in the car
24 moving?

25 Q No. When you got out of the car did he

[53]

1 just stand still when he got out of the car?

2 A No.

3 Q He was running, correct?

4 A No.

5 Q No? So which one was it? Was he standing
6 still when he got out of the car, or was he running?

7 A The car, the car is in motion, sir, so the
8 car is still moving.

9 Q Right. But what was Dianti doing at that
10 time?

11 A Once he opened his door he put, when you
12 try to run out of a moving car, however -- I don't
13 know; I can't say this, but however -- basically the
14 car, the car was right behind. So when he opened
15 the door and tried to run I just see him go down.
16 You got what I'm?

17 Q How close was that car behind you guys?

18 A Close, close. It was close because we
19 were coming to a stop, so.

20 Q So Officer Mays' car is right behind you,
21 and Dianti jumped out of the car. Did he run
22 between, behind the car you were in?

23 A The car I was in?

24 Q Yeah. You, did you run -- did he run
25 behind the black Jeep?

[54]

1 A Actually on, on the side so basically when
2 he opened his door -- he's on the left-hand side;
3 I'm on the right. When he opened his door the, how
4 it's set up is the, like you said, the woods is on
5 the right, my side, and the lake is on the, on the
6 left side. So the back, if he's in the back of the,
7 our car he's behind us. So he, he's, you know what
8 I'm saying, he is not close to Dianti's door or none
9 of that. That's, he's behind the car.

10 Q Right.

11 A My understanding, when he got, opened the
12 door and he put, tried to even put a feet out or a
13 leg out, whatever the case may be, he goes under the
14 car. Do you know that? I mean do you, do you kind
15 of get where I'm trying?

16 Q So I'm following you, you're saying when
17 Dianti opens up the door to his car, he gets out.
18 He goes underneath his car?

19 A No, not, not the Jeep, not the Jeep. The
20 police car.

21 Can I give a theory? It's like put it out
22 there.

23 MS. MILLER: No, you don't give a theory.
24 You just need to answer the question.

25 THE WITNESS: It was better explaining it

[55]

1 like that, say that.

2 Q (BY MR. BENNETT) You know what, since you,
3 if you have a theory let me just hear your theory.

4 A Okay. So basically if the police car is
5 behind us he wouldn't have got to Dianti. Like if
6 the car is directly behind the Jeep Cherokee, the
7 police car directly behind the Jeep Cherokee to
8 where the headlights are facing the front of the
9 police car, the car --

10 (Reporter interruption for clarification.)

11 THE WITNESS: No. I'm saying if, if the
12 headlight was facing the front of the Jeep, the
13 front of the police car was facing the back of
14 the Jeep Cherokee, if that was the case Dianti
15 would have never got, you know, injured or
16 whatever. I'm not, I don't know for sure. I'm
17 just saying I know for kind of, you know, he
18 would have got out of the car and probably ran,
19 like had a run. But that wasn't the case.

20 Q (BY MR. BENNETT) Do you know what
21 direction, well, could you tell what direction
22 Dianti was trying to head in?

23 A He just opened his door and was going to
24 just open the door and just was trying to get out.

25 Q I'm just trying to make sure I have your

[56]

1 positioning correct. So the police officer's
2 vehicle, they were not directly in line, were they?

3 A No, they wasn't.

4 Q Was the police officer's vehicle pushed
5 over towards behind but over to the left; is that
6 right?

7 A I, I, not, well, I'm on the right so,
8 yeah, you can say that. Well, I can, well, I'm not
9 know for sure, but.

10 Q I'm just trying to make sure I'm following
11 that it just wasn't bumper to bumper perfectly lined
12 up?

13 A Yeah, yeah.

14 Q The car was getting over towards the
15 driver's side of the vehicle and not directly in
16 line?

17 A Yeah.

18 Q Let me ask you. When Dianti opened up his
19 door how long was that door open before he got out
20 of the vehicle?

21 A I don't know. I can't, it just a split
22 second.

23 Q I guess the thing I'm trying to make sure
24 was he didn't open up the door and have it kind of
25 open before he jumped out. It was I'm getting out

[57]

1 of the car. I open the door; I'm getting out of the
2 car, correct?

3 A Yeah. It was open door and trying to get
4 out. It wasn't no full open, like a whole open
5 door, but it was a open door and got out.

6 Q I want to just go back to one quick
7 follow-up question with the Gwinnett County
8 incident. When the officer had the gun pointed at
9 your chest how far away was he from you?

10 A Actually right in front of me. It was in
11 the hotel hallway so he was actually right in front
12 of me.

13 Q In terms of feet did the gun ever come in
14 contact with your chest?

15 A Huh-uh. No, sir.

16 Q Was it more than an arm distance away from
17 you?

18 A Arm's reach?

19 Q Yes, sir.

20 A Like he could have touched me if he
21 reached his arm out?

22 Q Yes, sir. Could he touch you?

23 A Huh-uh. It was, it was close like that,
24 but it wasn't to where like, because he had the gun
25 pointed at me so the gun wasn't touching me, so.

[58]

1 Q When he approached, was the gun already
2 out when he was approaching you?

3 A Yes.

4 Q We haven't spoken about his ankle. Did
5 Dianti ever mention anything else about his injuries
6 to you?

7 A Can you repeat that?

8 Q Did Dianti mention anything else about any
9 other injuries to you?

10 A No, sir.

11 Q Let me just ask you. In terms of
12 Dianti's -- and this is going to sound like a weird
13 question -- but prior to this incident was Dianti
14 ever able to dunk a basketball on a ten-foot goal?

15 A He probably, he can touch rim I believe.

16 Q How about now when you guys play? Can he
17 still touch the rim?

18 A I, I actually don't know. He ain't tried
19 it.

20 MR. BENNETT: That's all I have.

21 FURTHER EXAMINATION

22 BY MS. MILLER:

23 Q One followup based on the questions you
24 just asked. Mr. Whitehead, just so that the record
25 is clear, when I spoke to you yesterday did I say

[59]

1 the phrase swallowed to you?

2 A No, no.

3 Q Is that a phrase that you told to me?

4 A Yes.

5 Q Did I at any point yesterday tell you what
6 to come to this deposition to say?

7 A No, ma'am.

8 Q Did I give you any buzz words to say?

9 A No, ma'am.

10 Q And when Mr. Early, Dianti, got out of the
11 Jeep was the Jeep still moving?

12 A Yes.

13 Q So he jumps out, and the Jeep is still
14 going straight ahead, correct?

15 A Yes.

16 Q No one is steering the Jeep, right?
17 You've got to speak up.

18 A No. Yes, no one, no one was steering.

19 Q And what made the Jeep stop?

20 A The tree.

21 Q How did the tree make the Jeep stop?

22 A Oh, it impacted it.

23 Q The Jeep impacted the tree?

24 A Yeah. I mean the, the way impact, the car
25 impacted the tree.

[60]

1 MS. MILLER: Thank you. That's all I
2 have.

3 FURTHER EXAMINATION

4 BY MR. BENNETT:

5 Q And I'm sorry to do this, Mr. Whitehead.
6 I do have one followup. In terms of your, what
7 phone number -- when you met or spoke with
8 Ms. Miller did you do that in person?

9 A The, when I first met her?

10 Q Right. When you first, when you met with
11 her yesterday did you meet with her or --

12 A Yes, yes. Wait. No, no, no, no.

13 Q Let me be clear. When you spoke to her to
14 get prepared for this deposition --

15 A Huh-uh, no, I didn't; I didn't. I'm
16 sorry.

17 Q So did you do that over the telephone?

18 A Yes.

19 Q And did you use your phone to speak with
20 her?

21 A Yes.

22 Q Was there anybody there with you when you
23 spoke with her?

24 A No.

25 Q What was the phone number you used to

[61]

1 contact Ms. Miller?

2 A I actually don't have a phone number. I
3 was on -- what it -- it was actually on Zoom.

4 Q On Zoom?

5 A Yeah. I don't have a phone number, so.

6 Q And if it was on Zoom what computer were
7 you using or what device were you using to access
8 it?

9 A I was using a iPhone. It has the email on
10 it.

11 Q Whose iPhone was it?

12 A I think it's my friend's iPhone.

13 Q You think it was your friend's iPhone?

14 A Yeah. I don't know whose phone it is.
15 They say it's, you know, whoever. Well, if somebody
16 tells me it's theirs I just go with it's theirs.

17 Q What friend did you get the iPhone from?

18 A It's one of my home, homeboys. Well, good
19 friend.

20 Q What's his name?

21 A No, I didn't get it from him. He, he
22 still got the phone. I was just using it.

23 Q Right, right. But the one that you
24 borrowed, who, what's your friend's name?

25 A Anthony.

[62]

1 Q And his last name?

2 A I, I think it's Whitaker.

3 Q And in terms of how long, do you know how
4 long the conversation lasted?

5 A It was short, not, not even 30 minutes I
6 don't think. After I had told, told my, what
7 happened it was over.

8 Q Do you think it was more than 20 minutes?

9 A I'm not sure. I can't, can't recall.

10 Q But you don't think it lasted more than 30
11 minutes?

12 A No, it didn't.

13 MR. BENNETT: That's all that I have.

14 Thank you, thank you very much for your time
15 today, Mr. Whitehead. I do appreciate you
16 being patient with us with this. I wanted to
17 say thank you.

18 MS. MILLER: Do you want to give him the
19 opportunity? Mr. Whitehead, you have the
20 opportunity to read your deposition once the
21 court reporter makes the transcript of it.
22 So she types it out. You, because you were
23 the witness that was deposed, have the
24 opportunity to look at the deposition to
25 make sure that it's accurate and that there

1 are no typos.

2 You can't change your testimony, but you
3 can fix anything that is inaccurate if you want
4 to. You don't have to, but you have a choice.
5 Would you like to read it, or would you not
6 like to read it? It is up to you.

7 THE WITNESS: I mean I don't have to.

8 MS. MILLER: You don't have to. Sounds
9 like he does not want to read and sign.

10 THE WITNESS: Is it important?

11 MS. MILLER: It's up to you. I mean
12 it's --

13 THE WITNESS: I don't know about this
14 stuff.

15 MS. MILLER: You can look at it and just
16 make sure it's accurate. It's up to you.
17 I'm not advising you. It's really your
18 choice.

19 MR. BENNETT: Mr. Whitehead, I know
20 sometimes on opposite sides you hear from
21 attorneys, but it is truly your decision. It's
22 your right to do. So neither one of us are
23 going to tell you don't use your right or use
24 your right, so.

25 THE WITNESS: I just want to make sure I'm

[64]

1 not missing anything, like missing, you know,
2 that I got to complete or finish it with this.
3 But thank you, thank you.

4 (It was stipulated and agreed by and
5 between counsel for the respective parties and
6 the witness that the signature of the witness
7 to the deposition be waived.)

8 (Deposition concluded at 3:30 p.m.)
9
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CERTIFICATE OF COURT REPORTER
G E O R G I A
FULTON COUNTY:

I hereby certify that the foregoing transcript was reported as stated in the caption, and the questions and answers thereto were reduced to writing under my direction; that the foregoing pages 1 through 64 represent a true, complete, and correct transcript of the evidence given upon said hearing.

I certify that I am not disqualified for a relationship of interest under O.C.G.A. 9-11-28(c); I further certify that I am not of kin or counsel to the parties in the case; I am a Georgia Certified Court Reporter here as a representative of Deb Puckett & Associates; I was contacted by Deb Puckett & Associates to provide court reporting services for this deposition; I will not be taking this deposition under any contract that is prohibited by O.C.G.A. 15-14-37(a) and (b) or Article 7.C of the Rules and Regulations of the Board; and by the attached disclosure form I confirm that Deb Puckett & Associates is not a party to a contract prohibited by O.C.G.A. 15-14-37 or Article 7.C of the Rules and Regulations of the Board.

This, the 20th day of January, 2023.

Cathey H. Sutton
Cathey H. Sutton, B1354

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DIANTI EARLY,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.:
v.)	1-22-CV-00816-SCJ
)	
OFFICER JOHN MAYS,)	
Individually, as an officer)	
of the UNION CITY POLICE)	
DEPARTMENT,)	
)	
Defendant.)	

REMOTE DEPOSITION OF
JUSTIN OMARI WHITEHEAD

Friday, January 6, 2023
2:01 p.m.

Cathey H. Sutton, CCR B1354
Certified Court Reporter

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DISCLOSURE OF NO CONTRACT

I, Cathey H. Sutton, do hereby disclose pursuant to Article 10.B of the Rules and Regulations of the Board of Court Reporting of the Judicial Council of Georgia that Deb Puckett & Associates was contacted by the party taking the deposition to provide court reporting services for this deposition and there is no contract that is prohibited by O.C.G.A. 15-14-37(a) and (b) or Article 7.C of the Rules and Regulations of the Board for the taking of this deposition.

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This 6th day of January, 2023.

Cathey H. Sutton, CCR B1354

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<p style="text-align: right;">5</p> <p>1 (All the participants joined the 2 deposition via Zoom.) 3 JUSTIN OMARI WHITEHEAD, 4 having been duly sworn, was examined and deposed as 5 follows: 6 MR. BENNETT: This will be the deposition 7 of Mr. Justin Whitehead, taken pursuant to 8 Notice and agreement of counsel for all 9 purposes under the civil practice, or the 10 Federal Rules of Civil Procedure. Is it okay 11 to have the same stipulations as to objections? 12 MS. MILLER: Yes. 13 (Counsel agreed that the stipulation 14 governing the taking of the deposition of 15 CHIANTI SUNKRIA BROWN will likewise govern the 16 taking of the deposition of JUSTIN OMARI 17 WHITEHEAD.) 18 EXAMINATION 19 BY MR. BENNETT: 20 Q Mr. Whitehead, have you ever had a 21 deposition before? 22 A No, sir. 23 Q I want to give you the quick rundown of 24 what our ground rules are. It won't take too long. 25 First, if I ask you a question if you can please let</p>	<p style="text-align: right;">7</p> <p>1 they're just background. They might sound a little 2 invasive, but it's just to make sure that you're 3 able to give testimony here today. Are you under or 4 have you taken any medications today that would 5 affect your ability to provide your testimony? 6 (Reporter interruption for clarification.) 7 THE WITNESS: No, sir. 8 MS. MILLER: Speak louder. 9 Q (BY MR. BENNETT) Have you consumed any 10 alcohol or any narcotics today that would affect 11 your ability to give truthful testimony? 12 A No, sir. 13 Q Are you under any stressful circumstance, 14 such as a sick family member, medical diagnosis, or 15 anything of that nature that would affect your 16 ability to give testimony today? 17 A No, sir, no, sir. 18 Q Thank you. If I could, would you please 19 state your full name for the record. 20 A Justin Omari Whitehead. 21 Q Sir, are you married? 22 A No, sir. 23 Q And how old are you, sir? 24 A Twenty-three. 25 Q And what's the highest level of education</p>
<p style="text-align: right;">6</p> <p>1 me finish my question before you answer so that way 2 we're not talking over one another. Can you do that 3 for me? 4 A Yes, sir. 5 Q Thank you. As well as I know in normal 6 conversations we do a lot of head nods, uh-huhs, 7 things of that nature. Because we are taking it 8 down and we have a court reporter taking everything 9 you say down, please try to use yes or no answers to 10 the best of your ability. Okay? 11 And then if you do need to take a break 12 for any reason please let me know; that's okay. 13 We'll make sure that you have the opportunity to do 14 that. All I ask is if we have a question pending 15 you answer the question first before you take that 16 break. Okay? 17 A Okay. 18 Q And I know we're here in Zoom, and I can 19 tell that you're there with Ms. Miller at her 20 office. So we know the location that you're there. 21 And, of course, other than Ms. Miller is there, 22 anybody else in the room with you? 23 A No, sir. 24 Q If I can I'm going to ask you a couple of 25 quick questions. I don't mean anything by it;</p>	<p style="text-align: right;">8</p> <p>1 you have? 2 A High school diploma. High school diploma. 3 Q And what high school did you graduate 4 from? 5 A Hapeville Charter Career Academy. 6 Q And are you currently employed, sir? 7 A No, sir. 8 Q Do you have any prior military service? 9 A No, sir. 10 Q Let me ask you, have you ever been 11 arrested before? 12 A Yes, sir. 13 Q If you could when, how many times have you 14 been arrested? 15 A Once, sir. 16 Q And when did that arrest occur? 17 A I think it was October, October last year 18 if I can recall. 19 Q So sometime in October '22. All right. 20 Is that case, are you still under prosecution for 21 that arrest? 22 A Can you explain to me what -- 23 MS. MILLER: Is the case still open? 24 THE WITNESS: I don't, I don't think 25 it's --</p>

<p style="text-align: right;">9</p> <p>1 MS. MILLER: Yes, it's still open.</p> <p>2 THE WITNESS: Yeah, yeah, it's still open.</p> <p>3 Yeah.</p> <p>4 MS. MILLER: So I would just on his</p> <p>5 behalf, since I don't represent him, ask you</p> <p>6 not to ask any questions about an open case.</p> <p>7 THE WITNESS: Yeah.</p> <p>8 MR. BENNETT: Absolutely no problem. I</p> <p>9 wasn't going to go into it. That's why I</p> <p>10 wanted to make sure I asked if it was open</p> <p>11 first.</p> <p>12 MS. MILLER: Thank you, Mr. Bennett.</p> <p>13 Q (BY MR. BENNETT) No problem. I will ask</p> <p>14 you one question just about it. What county is the</p> <p>15 case pending in?</p> <p>16 (Reporter interruption for clarification.)</p> <p>17 THE WITNESS: In Douglas County.</p> <p>18 Q (BY MR. BENNETT) It is our understanding,</p> <p>19 and we're going to turn our attention just to the</p> <p>20 incident we're here about today. As I understand</p> <p>21 you're the cousin of Dianti Early, correct?</p> <p>22 A Yes.</p> <p>23 Q And there was an incident that was about,</p> <p>24 occurred on March 1st, 2020 where Mr. Early was hit</p> <p>25 by a Union City police officer's car. Do you</p>	<p style="text-align: right;">11</p> <p>1 A No, sir.</p> <p>2 Q Did you ever see any bills of sale or any</p> <p>3 documents related to the ownership of the vehicle?</p> <p>4 A No, sir.</p> <p>5 Q Prior to the incident that took place</p> <p>6 between the officer and Dianti, how long were you</p> <p>7 with Dianti?</p> <p>8 A Can you repeat that again?</p> <p>9 Q How long were you with Dianti prior to the</p> <p>10 incident that we're about to talk about?</p> <p>11 A So before the incident?</p> <p>12 Q Yes.</p> <p>13 A Like, I can say like two days, two days.</p> <p>14 Q When you say you were with him for two</p> <p>15 days prior, during that time did he have the black</p> <p>16 Jeep with him?</p> <p>17 A I don't remember. I can't remember.</p> <p>18 Q Do you remember what you and Dianti were</p> <p>19 doing the two days prior to the incident?</p> <p>20 A We was going to studios because we both</p> <p>21 are like interested in music so studios. And</p> <p>22 basically like just hanging out together, you know,</p> <p>23 going to places, eat food, movies, you know.</p> <p>24 Q During that time how did you guys get</p> <p>25 around?</p>
<p style="text-align: right;">10</p> <p>1 remember that incident, sir?</p> <p>2 A Yes, I do, sir.</p> <p>3 Q Let's start at the very beginning of that</p> <p>4 day. When did you first meet up with Dianti?</p> <p>5 A I don't remember when I met up with him</p> <p>6 specifically. I just remember like where I went,</p> <p>7 you know, everything went, started to occur.</p> <p>8 Q Do you guys remember where you were coming</p> <p>9 from prior to seeing the police car --</p> <p>10 A At -- I'm sorry.</p> <p>11 Q -- I'm sorry -- prior to you seeing the</p> <p>12 police car at the gas station?</p> <p>13 A We were actually going to my house.</p> <p>14 Q And do you remember where you were leaving</p> <p>15 from to go to your house?</p> <p>16 A I don't. I was actually going to get some</p> <p>17 clothes so, yeah, I don't.</p> <p>18 Q You guys were in a black Jeep Cherokee</p> <p>19 that day. Do you know who owned that vehicle?</p> <p>20 A Dianti.</p> <p>21 Q Did you ever discuss with him how he came</p> <p>22 to be in possession of that vehicle?</p> <p>23 A He bought it. I recall he bought it.</p> <p>24 Q Were you present with Dianti when he</p> <p>25 purchased the vehicle?</p>	<p style="text-align: right;">12</p> <p>1 A I was actually with, with him.</p> <p>2 Q In that time were you guys, when you were</p> <p>3 driving around to go to different places were you in</p> <p>4 his vehicle?</p> <p>5 A Yes. Not the, the specific vehicle I</p> <p>6 think you're referring to.</p> <p>7 Q What vehicle were you in, sir?</p> <p>8 A I can't recall what vehicle. It wasn't</p> <p>9 the Jeep though. It wasn't that black Jeep you're</p> <p>10 referring to.</p> <p>11 Q Do you know whose vehicle that you guys</p> <p>12 were using the two days prior to the incident was?</p> <p>13 A Can't recall.</p> <p>14 Q Tell me the first time that you saw the</p> <p>15 Union City police car involved in this case.</p> <p>16 A I was, we was parked in front of the store</p> <p>17 facing the gas pump, just sitting there for I can</p> <p>18 say like two, three minutes. And the officer pulled</p> <p>19 up to the gas pump in front of us, and I just, I</p> <p>20 just thinking like why did the police, you know,</p> <p>21 pull right there in front of us and, you know,</p> <p>22 there's other gas pumps. I'm just having thought</p> <p>23 like what's going on.</p> <p>24 My cousin gets back in the car; he said</p> <p>25 the same thing, like what's going on because we</p>

13

1 don't know what's going on. And we, we pull out; he
2 followed us. Oh, that's my personal. I'm going too
3 far. I'm sorry.

4 Q That's okay. I was about to ask you that
5 next question. So you guys notice the vehicle.
6 When you have the conversation with Dianti about
7 seeing the police car there, was that inside the
8 vehicle while you guys were outside the gas station?

9 A Can you repeat that?

10 Q When you guys, when you were talking about
11 that discussion you and Dianti had about seeing the
12 police vehicle, were you guys inside the car outside
13 the gas station?

14 A Yes. He just getting in the car. He had
15 the door open, and he act like why the police are
16 right there.

17 MS. MILLER: I'm sorry. He just answered.
18 Can we pause for one second to tell my
19 assistant to grab my mom?

20 MR. BENNETT: Absolutely.

21 (A brief recess was taken at 2:15 p.m.)

22 Q (BY MR. BENNETT) So as you guys entered
23 your vehicle outside the gas station you were
24 heading back to go to your apartment, correct?

25 A Yes, sir.

14

1 Q And I think you said as you were driving
2 back you noticed the police car behind you, correct?

3 A Yes. He was trailing, trailing us.

4 Q And your apartment at the time, was it the
5 apartment at Shannon Lakes?

6 A Yes, sir.

7 Q How long had you lived in Shannon Lakes
8 prior to this incident?

9 A I can't say a specific number, but like we
10 moved to Union City before like ninth grade. And I
11 did my whole four years there so I can't recall,
12 like.

13 Q It's been a long time?

14 A Yeah. A long time, like over five, four
15 or five years.

16 Q And Dianti has visited you at that
17 apartment quite a bit, correct?

18 A Yes, sir.

19 Q So as you guys entered into the apartment
20 complex, Officer Mays, who's the defendant in this
21 case, he was still following you, correct?

22 A Yes, sir.

23 Q And you guys are heading towards your
24 apartment. Do you remember how fast Dianti was
25 driving?

15

1 A No, sir. It was slow. It was very slow
2 to, but, no, sir, I don't.

3 Q Do you recall the first time you saw the
4 officer turn on his blue lights?

5 A We were by the rent office I, I believe,
6 and the rent office, yeah, we, we were by the rent
7 office. And the rent office is like deep, actually
8 by my house almost, so.

9 Q That's when you saw the officer activate
10 his blue lights to try to stop you, correct?

11 A Yes.

12 Q And did Dianti stop the vehicle when the
13 blue lights turned on?

14 A No, sir.

15 Q And he continued to drive his vehicle past
16 your apartment; isn't that true?

17 A Yes, sir.

18 Q Now, after you continued past your
19 apartment did you get out of the vehicle at that
20 point in time?

21 A You -- can you repeat that?

22 Q Walk me through in your own words -- and
23 we can break it down afterwards -- but walk me
24 through what happened after, immediately after the
25 officer turned on his blue lights. What happened

16

1 next?

2 A Okay. We passed my house, went up the
3 hill. We wasn't going very fast. It's speed bumps.
4 So go down the hill, and I get the thought that
5 we're fixing to hop out. We hop out and -- no. He
6 hops out first. And then when he hops out it was a
7 split second so when I looked up I hit a tree, like
8 the car hits a tree. So he hopped out; the car hit
9 the tree, and, you know, I get out.

10 Q When Dianti got out of your vehicle the
11 car was still moving, correct?

12 I'm sorry. I didn't hear your answer.

13 A Yes, sir.

14 Q Dianti did not put the car into park;
15 isn't that true?

16 A No, sir.

17 Q That's a weird question because you said
18 no. So did he put the vehicle into park before he
19 jumped out?

20 A Oh, no, sir.

21 Q And you said that you were still in the
22 vehicle when you hit the tree. When that occurred
23 did you have any injuries, sir?

24 A No, sir.

25 Q And as you were in the vehicle where were

<p style="text-align: right;">17</p> <p>1 you looking at? What direction were you looking</p> <p>2 when Dianti jumped out of the car?</p> <p>3 A I was looking his direction at first.</p> <p>4 Then the car, the car was still in motion so I</p> <p>5 turned when he did, he got out. I looked straight,</p> <p>6 and I seen the tree.</p> <p>7 Q After he gets out of the car -- I just</p> <p>8 want to be clear -- after he got out of the car</p> <p>9 you're looking at the tree in front of you, correct?</p> <p>10 A Yes.</p> <p>11 Q How soon after you hit, the car hit the</p> <p>12 tree did you get out of the vehicle?</p> <p>13 A It was like a whole 59 seconds. A whole</p> <p>14 minute, it took me a whole minute to like snap back.</p> <p>15 Q You're in the car for a whole minute after</p> <p>16 the entire incident, or after you hit the tree?</p> <p>17 A Yes, sir.</p> <p>18 Q Did you lose consciousness while you were</p> <p>19 in the vehicle?</p> <p>20 A No. It was like a quick blackout, a long</p> <p>21 blink, but it was quick.</p> <p>22 Q And what was the first thing you did after</p> <p>23 the car hit the tree?</p> <p>24 A I opened the door, and I moved all the</p> <p>25 tree, like the bushes out the way. And I didn't see</p>	<p style="text-align: right;">19</p> <p>1 A The, the way we came in.</p> <p>2 Q What did you see when you were running</p> <p>3 back the way that you came in?</p> <p>4 A I took three or four, four or five steps</p> <p>5 and turned around, like just turned my head. I was</p> <p>6 still in a jogging motion of running, and I seen</p> <p>7 Dianti like trying to get up. But to me it looked</p> <p>8 like his leg was broken. That's what I thought</p> <p>9 happened. But he couldn't; he just collapsed on the</p> <p>10 ground. Like he was trying to get up, but he</p> <p>11 couldn't get up.</p> <p>12 Q So did you see Dianti with a broken leg in</p> <p>13 your mind?</p> <p>14 A It was like when he was trying to get up</p> <p>15 it was dangling, like he couldn't put it on the</p> <p>16 floor.</p> <p>17 Q When you saw that did you stop, or did you</p> <p>18 continue to run from the area?</p> <p>19 A Keep going.</p> <p>20 Q Now, as you were running did you go</p> <p>21 directly back to your apartment, or where did you</p> <p>22 go?</p> <p>23 A I went directly to my apartment.</p> <p>24 Q And from your apartment could you observe</p> <p>25 anything that was transpiring between Dianti and the</p>
<p style="text-align: right;">18</p> <p>1 nobody so I took off running.</p> <p>2 Q And from our understanding when you look</p> <p>3 at the parking lot area that you guys were in, if</p> <p>4 you're facing from the direction that you came from</p> <p>5 on your left is the little lake that's in the middle</p> <p>6 of the apartment complex --</p> <p>7 A Uh-huh.</p> <p>8 Q -- and on the right-hand side is the wood</p> <p>9 line?</p> <p>10 A Uh-huh.</p> <p>11 Q When you got out of the car which way did</p> <p>12 you go? Did you run towards the lake, or did you go</p> <p>13 towards the wood line?</p> <p>14 A So when the car hit the tree, so now it's,</p> <p>15 the lake is behind the car so the car facing the</p> <p>16 tree now and the lake is behind the car. So I get</p> <p>17 out facing like the building, like basically like</p> <p>18 the way we came in.</p> <p>19 Q So you're facing back towards the way that</p> <p>20 you guys came in?</p> <p>21 A Yes, sir.</p> <p>22 Q And which way did you, you go I guess?</p> <p>23 Did you go back the way you guys came in, or did you</p> <p>24 go back further like you were going in the path of</p> <p>25 the vehicle?</p>	<p style="text-align: right;">20</p> <p>1 officer?</p> <p>2 A No, I can't.</p> <p>3 Q What was the address for your apartment,</p> <p>4 your apartment number?</p> <p>5 A I don't remember. It's, yeah, I don't</p> <p>6 remember. It's the Park at Netherley; that's the</p> <p>7 name of the apartments now, but I don't know the</p> <p>8 unit, the apartment number.</p> <p>9 Q You don't recall the apartment number that</p> <p>10 you lived in?</p> <p>11 A Yeah, yeah, I don't.</p> <p>12 Q Does your mom still live in that, at that</p> <p>13 apartment?</p> <p>14 A No, sir.</p> <p>15 Q When did you move away from that</p> <p>16 particular apartment complex?</p> <p>17 A I can't recall that. I think that year</p> <p>18 2021 or something.</p> <p>19 Q And did you know who would be on the lease</p> <p>20 for the apartment? I'm sorry. It looked like you</p> <p>21 said something but it --</p> <p>22 A My mother, my mother.</p> <p>23 Q So going back to the incident, other than</p> <p>24 seeing Dianti being on the ground or not being able</p> <p>25 to get up, did you see anything else?</p>

<p style="text-align: right;">21</p> <p>1 A No, sir.</p> <p>2 Q So you never saw what took place between</p> <p>3 Dianti coming into contact with the vehicle</p> <p>4 directly, correct?</p> <p>5 A Yes, sir. No, no, sir. I'm sorry.</p> <p>6 Q No, no, it's one of those weird lawyer</p> <p>7 questions sometimes.</p> <p>8 A Yeah, I just, I just got tricked by -- I'm</p> <p>9 sorry.</p> <p>10 Q No, it's okay. I just want to make sure</p> <p>11 I'm clear. You did not personally see Dianti being</p> <p>12 struck by the vehicle, correct?</p> <p>13 A Oh, no, sir.</p> <p>14 Q So in terms of what actually took place of</p> <p>15 how the officer came into contact with him, you</p> <p>16 wouldn't be able to tell me anything that you, you</p> <p>17 know about it?</p> <p>18 A You say with him?</p> <p>19 Q Right. Because you never, you didn't see</p> <p>20 it so you don't know what happened?</p> <p>21 A Oh, no, no, sir.</p> <p>22 Q Did you talk to Dianti about what</p> <p>23 happened?</p> <p>24 A No, sir.</p> <p>25 Q Have you had any conversations with Dianti</p>	<p style="text-align: right;">23</p> <p>1 Q No? Do you remember what phone number you</p> <p>2 had at the time of the incident?</p> <p>3 A No, sir.</p> <p>4 Q Do you remember what cell phone provider</p> <p>5 you might have had at the time?</p> <p>6 Is that a no?</p> <p>7 A No, sir.</p> <p>8 Q I want to go back just a little bit.</p> <p>9 After you guys saw the lights you mentioned that you</p> <p>10 thought you and Dianti were going to run. I want to</p> <p>11 ask you, why did you feel like you needed to run?</p> <p>12 A Me personally because I was afraid. It</p> <p>13 was so much happening at, at the time like, and it</p> <p>14 was off guard. So I was afraid personally.</p> <p>15 Q You were afraid even though you were a</p> <p>16 passenger of a vehicle that's about to be stopped?</p> <p>17 A Yes, sir.</p> <p>18 Q Have you ever been involved with any law</p> <p>19 enforcement official ever using force to detain you?</p> <p>20 A No, but I have had an incident with law</p> <p>21 enforcement pulling a firearm on me.</p> <p>22 Q Tell me, when did that incident occur?</p> <p>23 A I can't remember when, but, yeah, I can't</p> <p>24 remember when, but I, I can, but I can't remember</p> <p>25 when.</p>
<p style="text-align: right;">22</p> <p>1 about what took place that day?</p> <p>2 A No, sir. Only about a deposition, I</p> <p>3 supposed to be doing this. That's the only.</p> <p>4 Q Did you do anything to prepare for your</p> <p>5 deposition for today?</p> <p>6 A No, not really. That's why I'm kind of</p> <p>7 nervous. I'm sorry if I am.</p> <p>8 Q No, no, you're doing fine. I appreciate</p> <p>9 you taking the time to meet with us, so. In terms</p> <p>10 of -- did you ever have any conversation with</p> <p>11 Dianti's girlfriend, Ms. Britain?</p> <p>12 A No, sir.</p> <p>13 Q Do you remember any conversation that you</p> <p>14 would have with Dianti's mother on the day of the</p> <p>15 incident?</p> <p>16 A I think I didn't, I didn't call his</p> <p>17 mother. I called his brother and told, told his</p> <p>18 brother that what, what happened.</p> <p>19 Q You called Dianti's brother, who then told</p> <p>20 his mom?</p> <p>21 A Yes. I think he, I think I -- I, I don't</p> <p>22 know for sure, but I called him.</p> <p>23 Q Is your cell phone number the same that</p> <p>24 you would have had at the time of this incident?</p> <p>25 A No, sir.</p>	<p style="text-align: right;">24</p> <p>1 Q Was it in 2020?</p> <p>2 A Yeah. It was, it was around that time. I</p> <p>3 was, I was out of high school around, I graduated</p> <p>4 high school in 2018 so I was out of high school.</p> <p>5 And, yeah, it was around that time. I was older.</p> <p>6 Q And where did the incident occur?</p> <p>7 A I was in Gwinnett County at a cousin's</p> <p>8 birthday, a little cousin's birthday party at a</p> <p>9 hotel. I think it was a Stay Inn, a Suite Inn,</p> <p>10 something like that, in Gwinnett County. It's a</p> <p>11 Dick's Sporting Goods by the hotel so it's</p> <p>12 somewhere. I remember.</p> <p>13 Q Do me a favor. Tell me what took place</p> <p>14 that caused that encounter with law enforcement.</p> <p>15 A Okay. So it was a, it was a altercation</p> <p>16 with my cousin's, my little cousin's mom and her</p> <p>17 boyfriend. And I guess the boyfriend had like put</p> <p>18 his hands on her somehow some way, and the police</p> <p>19 was called. But from my understanding it wasn't</p> <p>20 that serious because everybody, you know, escalated,</p> <p>21 you know, like de-escalated the situation and</p> <p>22 everything. So I guess the police were called later</p> <p>23 in that process. And the police came later, like</p> <p>24 when everybody was, you know, cool and cooled down</p> <p>25 and he'd done apologized and everything.</p>

25

1 And I was actually outside at the time
2 with some of my other cousins. And I was trying to
3 catch the door to the hotel. I remember just trying
4 to get back inside to get something. And then when
5 I got in there, you know, I caught the door as
6 somebody was coming out the door. You know, you
7 need a keypad to get into a hotel suite door or
8 anything like that. I'm just here for a birthday
9 party so I didn't have a keypad or anything.

10 So I catch the door as somebody coming
11 out. I ask them can they hold the door for me and
12 like jam the door. Once I see, once I go to my
13 cousin's, like the hotel room I automatically hear
14 hey, stop, you, stop. And it was behind me. So
15 when, when I turn around I see him. He's running up
16 on me, but at the same time he had his firearm in
17 his hand. I can't see his eyes; he got sunglasses
18 on his face, everything.

19 So he just, he said don't move, don't
20 move. And at this point like I, I, I did not move.
21 I mean I tried, I knocked on the door. And he said
22 don't do that, don't. I'm warning you; don't do
23 that. I hit, I hit the door two times because I got
24 scared; I panicked. I hit it those two times to try
25 to get somebody out there. He was still like trying

26

1 to shoot. And he stood with the firearm on me for
2 approximately like seven minutes until my family
3 came out there. And his partner was like this ain't
4 the person, you know.

5 Q After they cleared that you weren't the
6 person did they let you go?

7 A Oh, yes. They never detained me. He just
8 had his firearm on me because he thought I was
9 trying to get back into the hotel some, I don't
10 know. That's what he told his partner.

11 Q Was anyone arrested?

12 A No, sir.

13 Q Do you remember what department that it
14 was that came out there?

15 A It was, I think it was Gwinnett County. I
16 don't know what's the name of that department, but
17 it was Gwinnett.

18 Q Have you had any other encounters with any
19 law enforcement official?

20 A No, sir.

21 Q So would you agree with me that based on
22 your experiences if you do what the officer asked,
23 you aren't at risk of getting injured, right?

24 A Can you repeat that?

25 Q You would agree with me that based on your

27

1 own personal experiences that when you did what the
2 officer asked nothing happened afterwards; isn't
3 that a true statement?

4 A The officer that I'm referring to?

5 Q Yes, sir.

6 A Yes, after a couple of minutes. Like he
7 was in fire mode.

8 Q But after they were, after he was able to
9 figure out what the situation was, nothing happened?

10 A Oh, yeah. I mean yes, sir.

11 Q Again, so while you're in the vehicle with
12 Dianti did you think you did anything wrong?

13 A No, sir.

14 Q And you're not driving the car, correct?

15 A No, sir.

16 Q Do you have a driver's license?

17 A No, sir.

18 Q At the time of the incident did you ever
19 have a driver's license?

20 A No, sir.

21 Q Have you ever been in a car that's been
22 pulled over?

23 A Yes, sir.

24 Q And I imagine without a driver's license
25 you weren't driving that vehicle at that time?

28

1 A No, sir.

2 Q And when that car got pulled over did
3 anyone get out to run from the police?

4 A No, sir.

5 Q Did anything happen in that incident?

6 A I think it was a search.

7 Q Okay.

8 A Or that's what it's called.

9 Q Was anyone arrested at that period of
10 time?

11 A No, sir.

12 Q Was anyone injured by that encounter with
13 the police officer?

14 A No, sir.

15 Q Did you ever have a conversation with
16 Dianti about why he chose to run from the police?

17 A No, sir.

18 Q So you don't know why someone would decide
19 to run without knowing what the officer was even
20 trying to stop you guys for, right?

21 A No, sir.

22 Q Did you hear or were you present for any
23 conversations between the officer and Dianti at the
24 scene of the incident?

25 (Reporter interruption for clarification.)

<p style="text-align: right;">29</p> <p>1 THE WITNESS: No, sir.</p> <p>2 Q (BY MR. BENNETT) And I want to ask you the</p> <p>3 one question that's kind of been burning through all</p> <p>4 of this with me is when you saw Dianti on the ground</p> <p>5 why didn't you stop to even check to see if he's</p> <p>6 okay or offer any kind of assistance.</p> <p>7 A I don't know. Just, just in the moment I</p> <p>8 guess. I don't know.</p> <p>9 Q At the time of the incident did you have a</p> <p>10 cell phone with you when the incident occurred?</p> <p>11 A I'm not sure. Not sure.</p> <p>12 Q When you got out of the car did you have</p> <p>13 anything with you?</p> <p>14 A No, no.</p> <p>15 Q After the incident did you ever visit</p> <p>16 Dianti at the hospital?</p> <p>17 A No.</p> <p>18 Q That's a no?</p> <p>19 A No.</p> <p>20 Q And did you ever go with Dianti to any</p> <p>21 medical appointments?</p> <p>22 A No, sir.</p> <p>23 Q Or did you ever assist with any of his</p> <p>24 therapy treatments?</p> <p>25 A No, sir.</p>	<p style="text-align: right;">31</p> <p>1 pickup games, or is it just you and Dianti playing?</p> <p>2 A It's all competition, pickups, one on one.</p> <p>3 Q That's nice. In terms of -- where do you</p> <p>4 guys normally play?</p> <p>5 A So we go mostly like, like Decatur, Flat</p> <p>6 Shoals area. Those where most of the free courts</p> <p>7 are at, basketball courts over there.</p> <p>8 Q When you guys are playing do you guys</p> <p>9 doing like the full court, five on five at times?</p> <p>10 A Yes. I might, we might have some other</p> <p>11 friends with us.</p> <p>12 Q When was the last time you guys did that?</p> <p>13 A Last week. Like, yeah, as a matter of</p> <p>14 fact last week I didn't go, but last week I was</p> <p>15 supposed to go.</p> <p>16 Q When was the last time you and Dianti --</p> <p>17 A The week, the week before last week.</p> <p>18 Q And how long were you guys there playing</p> <p>19 basketball?</p> <p>20 A Up to five, five, six hours.</p> <p>21 Q And are you guys playing constantly</p> <p>22 through that five to six hours?</p> <p>23 A He might not, but me and the rest of my</p> <p>24 peers will.</p> <p>25 Q I'm just going to ask because I'm no older</p>
<p style="text-align: right;">30</p> <p>1 Q Have you ever observed Dianti perform any</p> <p>2 kind of exercises for his ankle to try to strengthen</p> <p>3 it up?</p> <p>4 A You said so seen?</p> <p>5 Q Yes. Have you ever seen him doing any</p> <p>6 kind of exercises at the house, particularly for his</p> <p>7 ankle?</p> <p>8 A I can't say exercise, but, you know, I</p> <p>9 done seen him trying to work it, you know, after</p> <p>10 he -- sometimes his leg might get in pain, and I</p> <p>11 seen that his leg might get in pain or something and</p> <p>12 he might have to stand up or walk, you know, or</p> <p>13 stretch it out.</p> <p>14 Q How often do you hang out with Dianti?</p> <p>15 A A lot.</p> <p>16 Q Since this accident has he, what are some</p> <p>17 of the things that you guys normally do when you</p> <p>18 guys hang out?</p> <p>19 A We play basketball. We still make music</p> <p>20 together. Just keep each other company.</p> <p>21 Q How often do you guys play basketball?</p> <p>22 A Every, try to get, get a hoop session in</p> <p>23 every week. Well, a basketball session in every</p> <p>24 week.</p> <p>25 Q Now, when you guys play do you guys play</p>	<p style="text-align: right;">32</p> <p>1 brother, but are you over there dunking on, on the</p> <p>2 net, or? I'm just trying to figure out how you guys</p> <p>3 are doing it.</p> <p>4 A I mean, okay, I, you know, a whole lot to</p> <p>5 speak on my game, I just let it show.</p> <p>6 Q We'll leave that alone. I won't say that</p> <p>7 you posted them up or anything. In terms of this</p> <p>8 incident is there anything that you can think of</p> <p>9 that we haven't talked about that you remember</p> <p>10 happening?</p> <p>11 A No, no, sir.</p> <p>12 Q Had you had any discussions with Dianti</p> <p>13 about his mental health since this accident?</p> <p>14 A I did ask him about the leg, his leg one</p> <p>15 time. I don't know if it's his leg or his ankle; I</p> <p>16 really don't know. But I did ask him, like is it</p> <p>17 still hurting, you know. He's like yeah, it get to</p> <p>18 aching sometime.</p> <p>19 Q I know you mentioned that you guys also</p> <p>20 went to a, you guys would go to the studio. Have</p> <p>21 you guys recorded any music or anything recording</p> <p>22 this particular incident?</p> <p>23 A Regarding -- what you mean? Like, I</p> <p>24 mean.</p> <p>25 Q That might have discussed this incident?</p>

33

1 **A Oh, no, no, sir.**

2 **Q** Prior to this incident taking place on
3 March 1st, 2020 compared to now, how would you
4 describe Dianti's demeanor with you?

5 **A Just the same I guess. I can't, I, I, I**
6 **can't answer that. I don't know. That's a question**
7 **that I think he can answer.**

8 **Q** But how about your encounters with him,
9 have you noticed anything different?

10 **A Oh, with him?**

11 **Q** Yeah.

12 **A No, not really. He, not really.**

13 **Q** While you guys are meeting up and talking
14 does he ever talk to you about any of the police
15 cases that might be heard in the news?

16 **A As far as, as far as him, or?**

17 **Q** Not him but anything over the news, such
18 as the George Floyd incident or any kind of law
19 enforcement, social justice issues.

20 **A Oh, yeah. Yes, we have had conversation**
21 **about it.**

22 **Q** Tell me about those. What conversations
23 have you had?

24 **A We both just have the same opinion, like**
25 **it's wrong. It's wrong. Even when they burned the**

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1 **Wendy's down like, we was like hey, can't blame**
2 **them. It was kind of like me and his, you know,**
3 **because did, not us specifically but, you know, as**
4 **far as the black community, how the black community**
5 **feels.**

6 **Q** How often would you say you guys have had
7 a conversation about those kind of issues?

8 **A Really every time they occur. It's just a**
9 **eye-opener when you talk to each other about that**
10 **because it, it is like a warning, you know. He**
11 **basically telling me hey, when you get in front of**
12 **the police don't do this, don't do that. It's**
13 **basically like coaching.**

14 **Q** Do you recall ever having those kind of
15 discussions prior to this incident?

16 **A Not them kind of like, not, not that,**
17 **well, we had one conversation about the, the Wendy's**
18 **being burned down, but that was just it.**

19 **Q** Okay.

20 **A That I can recall.**

21 **Q** I'm talking about while you guys were in
22 high school or prior to 2020, okay, do you guys
23 ever remember having any of these conversations
24 about social justice issues, alleged police
25 brutality?

35

1 **A Not, I can't recall those.**

2 **Q** As you were running -- and I want to go
3 right back to just one quick thing -- as you were
4 running by the officer and Dianti, did the officer
5 say anything to you?

6 **A No, sir.**

7 **Q** Have you spoken to any other, any Union
8 City police officer about the incident between
9 Officer Mays and Dianti?

10 **A No, sir.**

11 **Q** One last question. The studios that you
12 guys were at, where was that located?

13 **A I can't recall. It's, we went to more**
14 **than one so I can't recall.**

15 **Q** If you could can you tell me what kind of
16 cities or what areas they were, even if you can't
17 recall the exact location?

18 **A Buckhead area, like out that way, city.**
19 **Georgia State area, you know, Peachtree, around the**
20 **same area, around there.**

21 **Q** Did you guys spend any time in like the
22 south Fulton, City of South Fulton or Palmetto or
23 south of I-20?

24 **A Can't recall.**

25 **Q** During this time did you meet up with

36

1 anybody else other than Dianti those two days that
2 you were with him before the accident? Was there
3 anybody else that you met up with?

4 **A Met with a couple of his friends. I think**
5 **that's it.**

6 **Q** At that time did any of his friends ever
7 use that black Jeep that you guys were driving?

8 **A No, sir.**

9 **Q** Do you remember any of the friends' names
10 that you met up with?

11 **A No. Wait. I think one of his name is**
12 **Will.**

13 **Q** Do you remember Will's last name?

14 **A No. I just got Will.**

15 **MR. BENNETT:** I think other than that, I'm
16 going to say, Mr. Whitehead, I really do
17 appreciate your time. I don't know if
18 Ms. Miller has any questions or not, but I
19 really do appreciate your time today.

20 **MS. MILLER:** I actually do have a couple
21 of questions for you. Can you hear, Madam
22 Court Reporter, because I'm a little bit
23 further away from the computer? Can you hear
24 me okay?

25 **THE REPORTER:** I can.

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1 EXAMINATION

2 BY MS. MILLER:

3 Q You described in your testimony that after
4 the vehicle that you were riding in hit the tree
5 that you sat there for a minute or 59 seconds. Do
6 you recall saying that?

7 A Yes.

8 Q Make sure you speak up.

9 A Yes, ma'am.

10 Q Did you have a stopwatch that you were
11 looking at?

12 A No.

13 Q Did you have a timer?

14 A No.

15 Q Were you counting?

16 A No.

17 Q So when you say it was one minute or 59
18 seconds, is that a guess about how much time it was?

19 A It kind of is. Yes, it is.

20 Q So you don't know with precision exactly
21 how much time you were sitting in the vehicle?

22 A Yes, I don't.

23 Q You also talked about the incident in
24 Gwinnett. Do you remember that?

25 A (Witness nods head.)

38

1 Q And Mr. Bennett asked you that after the
2 officer, after you did what the officer said,
3 nothing happened to you. Do you remember him saying
4 that?

5 A Yes, ma'am.

6 Q But let's back up to before he figured out
7 what was going on, he being the officer. You
8 described that he had his gun pointed at you,
9 correct?

10 A Yes, ma'am.

11 Q And where on your body was the gun
12 pointed?

13 A It was actually like pointing toward my
14 chest.

15 Q And you said he had sunglasses on?

16 A Sun, the police, like the sport baseball
17 like looking glasses.

18 Q So you were able to see his eyes through
19 the glasses?

20 A No, ma'am.

21 Q In his demeanor, the sound of his voice,
22 did he seem like he was angry?

23 A Yes, ma'am, very angry.

24 Q What did you think might happen to you
25 when that officer was standing in front of you with

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1 his gun pointed at your chest very angry?

2 A So I was even scared to move because of
3 how he was like trying to handle the situation.
4 Like I couldn't move. I felt like if I would have
5 took a step I would have got shot several times.

6 Q Did you think if you got shot several
7 times you might die there in that hotel?

8 A Yes, ma'am.

9 Q So in that moment when you're having this
10 interaction with this officer you're fearing for
11 your life?

12 A Yes, ma'am.

13 Q Okay. You talked about, you were asked
14 questions about who you talked to in connection with
15 your deposition today. Do you remember those
16 questions?

17 A Yes.

18 Q I want to go back to before there was any
19 deposition, before there was any lawyers involved,
20 back to sort of between the time that Dianti got
21 hurt and let's say the time that this lawsuit
22 started, back in the beginning. Dianti, did Dianti
23 tell you that he got hurt by the police?

24 A He didn't. I kind of like seen it, so.

25 Q So he never said anything to you about

40

1 what happened to him in the apartment complex?

2 A No, no.

3 Q You've never heard him talk about his
4 injuries and what happened in the apartment complex?

5 A Oh, yeah, I heard him talk about injuries.

6 I didn't know -- no, he never talked about like what
7 happened because I was, you know, but his injuries,
8 yeah.

9 Q What has he told you about his injuries?

10 A Like his, his leg in pain, you know, his
11 leg hurts. It be aching and stuff like that.

12 Q You described that sometimes when he gets
13 up he kind of has to shake his leg out or stretch
14 his leg; he can't really move it that well. But
15 then you also described y'all playing basketball all
16 the time. Okay? So when in connection with him
17 playing basketball with you has he talked about his
18 leg being hurt?

19 A All the time. Like, like, like I said,
20 like I told Mr. Bennett, he, like he, we'll go the
21 whole four, five hour, and he ain't going to go the
22 whole four, five hours.

23 Q So when you say we will go a whole four,
24 five hours, you're talking about you and your other
25 friends?

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1 A Yes.

2 Q What is Dianti doing while you guys are
3 playing for a whole four, five hours?

4 A He'll play a game, and, you know, the leg
5 problem might be in effect. And then he'll try to
6 walk it off. You know, like while we're playing
7 another game he will try to walk it off, exercise,
8 do whatever he can to try to play again, or he might
9 just call it quits, like never.

10 Q So there are times that you guys are
11 playing basketball and he's not able to play with
12 you or he has to stop because of his injuries?

13 A Yeah, all the time.

14 Q Are there times when you are going to play
15 basketball, and when you say we you mean this group
16 of friends --

17 A Yeah.

18 Q -- that he does not play with you?

19 A Repeat that.

20 Q Are there times where you guys go and he
21 does not play?

22 A Yes.

23 Q So when the times that he has gone with
24 you and he's not playing, what is he doing?

25 A Either in the car on his phone, on his

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1 phone talking to somebody.

2 Q Now, you did talk to me before your
3 deposition today; is that correct? We had a
4 conversation a couple of days ago?

5 A Yes.

6 Q And you remember asking me -- do you
7 remember me asking you what happened when you guys
8 were out there at the apartment complex?

9 A Yes.

10 Q You remember kind of me, much like
11 Mr. Bennett did, me asking you to describe what
12 happened when you first saw the officer and all that
13 stuff? Do you remember that?

14 A Yes.

15 Q You used, when we were talking, the phrase
16 swallowed. Do you remember saying that phrase?

17 A Yes.

18 MR. BENNETT: Object to the form.

19 Q (BY MS. MILLER) Define for me swallowed,
20 swallowed, like you swallowed, something gets
21 swallowed. Describe for me and for the record what
22 you, why you used the phrase swallowed and what you
23 were describing.

24 A Okay. So when I, when he hopped out the
25 car the door opened, and it was like he put a foot

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1 on the ground. I can't say, I'm not for sure. I
2 just know like when he put his leg out there and
3 tried to touch the ground the car kind of like just
4 swallowed him up under it. Like he went straight up
5 under the car.

6 Q When you say "the car" what car are you
7 talking about?

8 A The police car.

9 Q And so --

10 A And then that's when I looked up, like
11 when I looked up and the tree.

12 Q Then after you looked up, the car hit the
13 tree, you described that you then got out of the car
14 and took off running?

15 A Yes.

16 Q Now, once you got out of the car and took
17 off running you said you looked back and you saw,
18 what did you see Dianti doing? Did you say he was
19 trying to put weight on his leg but he couldn't?
20 Can you describe that again because it was a little
21 confusing.

22 A He was trying to get up, but he couldn't
23 get up. Like he was on one leg, trying to put
24 his -- I can see him trying to put his other leg on
25 the ground, but he couldn't. Like, like the other

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1 leg couldn't touch the ground. He was just like
2 kind of like hopping, and he just collapsed. Like
3 he hopped, like I can just say like twice. I'm not
4 sure twice. I just know he tried to get up.

5 When he tried to put his foot on the
6 ground it wasn't even like you were trying to walk.
7 It was trying, like he was like trying to get up or
8 whatever he be in, trying to put his foot on the
9 ground and couldn't. And he fell, like just fell on
10 the ground.

11 Q And you described how his, seeing how his
12 foot looked?

13 A Yeah. I thought it was broken.

14 Q What was it about the physical appearance
15 of his foot that led you to believe it was broken?

16 A Because it was like couldn't, it was, it
17 was basically dangling. It wasn't touching the
18 floor. Like you know how you, a person that stands
19 up straight and you just, you can't even stand up
20 straight like that. I don't know; I don't know.

21 Q So are you saying that he couldn't put his
22 weight on it? From what you could observe --

23 A Yeah, he couldn't put his weight on.

24 Q -- he couldn't put his weight on it?

25 A Yeah. So it was just like, it's crazy.

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1 Q Oh, when I spoke to you yesterday you, how
2 would you describe for the record what it was about
3 the police officer's behavior that made you fearful?
4 And I'm talking about on the day of the incident.
5 What was the officer doing that seemed unusual to
6 you, if anything?

7 A The Union City officer?

8 Q Yes.

9 A Okay. So first, first off we, we, we, we
10 wasn't doing anything. Like the day was I was
11 supposed to be going to get some clothes and, you
12 know, going back to. I still be, you know, we had
13 something going on; we know we had something going
14 on. It just wasn't that.

15 And it just like when he parked in front,
16 when he parked in front he started looking at. When
17 he looking at me he didn't take his eyes off. So
18 it's just like I'm looking. Then I try to turn my
19 head; I look away. He still looking at me so it's
20 like now, now, now I feel like I'm being targeted.
21 I can't even use the word targeted because everybody
22 feel like they might get targeted, police officer do
23 that.

24 But it just like you picking, you picking
25 at a person. And then when he followed us, he

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1 followed, I'm thinking we're going to pull over
2 right there. You know, I'm thinking we're going to
3 pull over right there. He follow us all the way
4 towards my neighborhood. We hadn't even gotten in
5 my neighborhood yet.

6 And you followed us, not even hitting your
7 light, not even giving us a sign you are going to
8 pull us over. And you take, we go all the way in
9 the neighborhood to where it is I'm thinking I was
10 going to go home, he's going to follow me all the
11 way to my house. So it's just like, I don't know.
12 I thought I was just being target, we was being
13 targeted that day, or, or picked, picked on,
14 however.

15 Q Was it unusual in your experience for an
16 officer to follow a car that you were in that long
17 without putting on blue lights or a siren or
18 something?

19 A No, ma'am. When I got pulled over, when
20 Mr. Bennett asked me when I got pulled over that
21 time, they pulled us over right there like and did
22 what they had to do right there. It wasn't no
23 following. They didn't follow. We were on the
24 expressway. They didn't follow; they didn't try to
25 keep follow us, nothing. They pulled us over right

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1 **there. I didn't, I actually did not get why he was**
2 **following me. That's why I felt like we was being**
3 **picked, actually being picked.**

4 Q You're saying it was unusual in your
5 experience for a police officer to follow you for
6 that long without putting on a blue light or a
7 siren?

8 A You say it was --

9 Q I'm asking you. Was it unusual in your
10 experience, did it seem strange --

11 A Yeah, yeah, it was strange.

12 Q Let me finish the question. Was it
13 strange to you based on your experience that the
14 police officer was staring at you, following you,
15 not putting on a siren, not putting on a blue light
16 from the gas station to the apartment complex? Was
17 that something unusual in your experience?

18 A Yes, ma'am.

19 MS. MILLER: Okay. I think that's all I
20 have.

21 FURTHER EXAMINATION
22 BY MR. BENNETT:

23 Q I have a couple of follow-up questions
24 here. In terms of that vehicle stop -- and I'm just
25 going back to your personal experience when that

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1 vehicle was stopped, and you just testified that it
2 was immediate or close to being immediate, not
3 really followed -- do you know why that vehicle was
4 pulled over?

5 A It was for a, a taillight. I think the
6 taillight was out or, or something was wrong with
7 the car, like the lights.

8 Q So a taillight being out, you can see that
9 pretty quick. If you're looking at the car you can
10 see a taillight out, correct?

11 A Yes, sir, I believe.

12 Q Did that officer stop that vehicle for
13 physically seeing a taillight out on that car?

14 A Yes, I believe so.

15 Q Do you know why Officer Mays was stopping
16 the vehicle you and Dianti were in?

17 A No, sir.

18 Q If I tell you, and I'll represent to you
19 that Officer Mays stopped the vehicle because it
20 matched a description of a stolen vehicle. Do you
21 understand that?

22 A Yes, sir.

23 Q And you would agree with me that it's
24 reasonable for him to try to identify whether or not
25 that's actually a stolen vehicle --

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1 **A I can't speak on his behalf because I**
2 **don't know.**

3 Q But, no. I'm just asking you your -- you
4 would agree that trying to identify a car that you
5 believe might be stolen because it matches the
6 description of a stolen vehicle would require
7 someone to make sure that he had that right before
8 he stopped you, correct?

9 **A I believe so, sir.**

10 Q Now, do you have any law enforcement
11 training, sir?

12 **A No, sir.**

13 Q Do you know how long it takes for
14 something to come back from a dispatch office?

15 **A No, sir.**

16 Q In terms of what Officer Mays was doing
17 while he was following your vehicle, you don't know
18 what he was doing, correct?

19 **A Yeah, No, sir.**

20 Q You don't know what he was doing in that
21 car?

22 **A Yeah, I don't know.**

23 Q So it's fair to say you don't know whether
24 or not what he was doing in that car was
25 unreasonable in the amount of time he needed to

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1 follow you before initiating his lights; is that --

2 **A Yes, sir.**

3 MS. MILLER: Did you understand that
4 question?

5 THE WITNESS: Yeah. Can you repeat? It
6 kind of --

7 Q (BY MR. BENNETT) You answered the
8 question. I think he, I will take that as he
9 understood it.

10 **A It kind of froze, but.**

11 Q I'm going to ask you. It sounds like you
12 had a long conversation with counsel prior to this
13 deposition; is that fair?

14 **A Who's counsel, sir?**

15 Q With Ms. Miller. You guys had a long
16 conversation prior to this deposition; isn't that
17 correct?

18 **A It was brief; it wasn't long.**

19 Q It was brief enough where you could go
20 through all your testimony here today?

21 MS. MILLER: He answered it. He said it
22 was brief. Are you asking him about his
23 testimony today? You asked him about our
24 conversation and if it was long; he said it was
25 brief.

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1 MR. BENNETT: Please don't instruct the
2 witness how to answer.

3 MS. MILLER: I'm not instructing the
4 witness.

5 MR. BENNETT: I understand the -- if you
6 have an objection please make the objection.
7 But I'm asking him --

8 MS. MILLER: Asked and answered.

9 THE WITNESS: It was brief though, sir.

10 Q (BY MR. BENNETT) You guys had a discussion
11 about the term swallowed, correct?

12 **A Yes. I, I actually said that time.**

13 Q Prior to this, as I was going through my
14 examination of you you never once used the term
15 swallowed. Okay? Isn't that true?

16 **A Yes.**

17 Q I wanted to ask you what else during your
18 conversation with Ms. Miller from beginning to end,
19 tell me what you and Ms. Miller discussed.

20 **A She just asked me what happened. I told**
21 **her what happened. And she just told me when I do**
22 **this deposition just tell the truth, nothing but the**
23 **truth.**

24 Q Did she tell you to make sure you used any
25 buzz words?

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1 **A No, sir. That's why I said brief, sir. I**
2 **didn't do nothing but tell her what happened, and**
3 **she told me to tell the truth.**

4 Q Now, when you got into this term -- I'm
5 going to go back to this swallowed here. You
6 testified earlier that Dianti got out of the
7 vehicle, correct, as --

8 **A Yes, sir.**

9 Q -- it hit the tree?

10 **A (Witness nods head.)**

11 Q He --

12 (Reporter interruption for clarification.)

13 Q (BY MR. BENNETT) And I'm going back to the
14 time that Dianti first jumps out of the car. When
15 he jumped out of the car did you look at Dianti?

16 **A Yes.**

17 Q And how long were you looking at Dianti?

18 **A Like a split second.**

19 Q And then you turned your attention back to
20 the tree in front of you?

21 **A Yes, yes.**

22 Q Dianti was moving at that time, correct?

23 **A By moving do you mean like in the car**
24 **moving?**

25 Q No. When you got out of the car did he

53

1 just stand still when he got out of the car?

2 **A No.**

3 **Q** He was running, correct?

4 **A No.**

5 **Q** No? So which one was it? Was he standing
6 still when he got out of the car, or was he running?

7 **A The car, the car is in motion, sir, so the**
8 **car is still moving.**

9 **Q** Right. But what was Dianti doing at that
10 time?

11 **A Once he opened his door he put, when you**
12 **try to run out of a moving car, however -- I don't**
13 **know; I can't say this, but however -- basically the**
14 **car, the car was right behind. So when he opened**
15 **the door and tried to run I just see him go down.**
16 **You got what I'm?**

17 **Q** How close was that car behind you guys?

18 **A Close, close. It was close because we**
19 **were coming to a stop, so.**

20 **Q** So Officer Mays' car is right behind you,
21 and Dianti jumped out of the car. Did he run
22 between, behind the car you were in?

23 **A The car I was in?**

24 **Q** Yeah. You, did you run -- did he run
25 behind the black Jeep?

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1 **A Actually on, on the side so basically when**
2 **he opened his door -- he's on the left-hand side;**
3 **I'm on the right. When he opened his door the, how**
4 **it's set up is the, like you said, the woods is on**
5 **the right, my side, and the lake is on the, on the**
6 **left side. So the back, if he's in the back of the,**
7 **our car he's behind us. So he, he's, you know what**
8 **I'm saying, he is not close to Dianti's door or none**
9 **of that. That's, he's behind the car.**

10 **Q** Right.

11 **A** My understanding, when he got, opened the
12 door and he put, tried to even put a feet out or a
13 leg out, whatever the case may be, he goes under the
14 car. Do you know that? I mean do you, do you kind
15 of get where I'm trying?

16 **Q** So I'm following you, you're saying when
17 Dianti opens up the door to his car, he gets out.
18 He goes underneath his car?

19 **A No, not, not the Jeep, not the Jeep. The**
20 **police car.**

21 **Can I give a theory? It's like put it out**
22 **there.**

23 **MS. MILLER:** No, you don't give a theory.

24 You just need to answer the question.

25 **THE WITNESS:** It was better explaining it

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1 like that, say that.

2 **Q (BY MR. BENNETT)** You know what, since you,
3 if you have a theory let me just hear your theory.

4 **A Okay. So basically if the police car is**
5 **behind us he wouldn't have got to Dianti. Like if**
6 **the car is directly behind the Jeep Cherokee, the**
7 **police car directly behind the Jeep Cherokee to**
8 **where the headlights are facing the front of the**
9 **police car, the car --**

10 **(Reporter interruption for clarification.)**

11 **THE WITNESS:** No. I'm saying if, if the
12 headlight was facing the front of the Jeep, the
13 front of the police car was facing the back of
14 the Jeep Cherokee, if that was the case Dianti
15 would have never got, you know, injured or
16 whatever. I'm not, I don't know for sure. I'm
17 just saying I know for kind of, you know, he
18 would have got out of the car and probably ran,
19 like had a run. But that wasn't the case.

20 **Q (BY MR. BENNETT)** Do you know what
21 direction, well, could you tell what direction
22 Dianti was trying to head in?

23 **A He just opened his door and was going to**
24 **just open the door and just was trying to get out.**

25 **Q** I'm just trying to make sure I have your

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1 positioning correct. So the police officer's
2 vehicle, they were not directly in line, were they?

3 **A No, they wasn't.**

4 **Q** Was the police officer's vehicle pushed
5 over towards behind but over to the left; is that
6 right?

7 **A I, I, not, well, I'm on the right so,**
8 **yeah, you can say that. Well, I can, well, I'm not**
9 **know for sure, but.**

10 **Q** I'm just trying to make sure I'm following
11 that it just wasn't bumper to bumper perfectly lined
12 up?

13 **A Yeah, yeah.**

14 **Q** The car was getting over towards the
15 driver's side of the vehicle and not directly in
16 line?

17 **A Yeah.**

18 **Q** Let me ask you. When Dianti opened up his
19 door how long was that door open before he got out
20 of the vehicle?

21 **A I don't know. I can't, it just a split**
22 **second.**

23 **Q** I guess the thing I'm trying to make sure
24 was he didn't open up the door and have it kind of
25 open before he jumped out. It was I'm getting out

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1 of the car. I open the door; I'm getting out of the
2 car, correct?

3 **A Yeah. It was open door and trying to get**
4 **out. It wasn't no full open, like a whole open**
5 **door, but it was a open door and got out.**

6 Q I want to just go back to one quick
7 follow-up question with the Gwinnett County
8 incident. When the officer had the gun pointed at
9 your chest how far away was he from you?

10 **A Actually right in front of me. It was in**
11 **the hotel hallway so he was actually right in front**
12 **of me.**

13 Q In terms of feet did the gun ever come in
14 contact with your chest?

15 **A Huh-uh. No, sir.**

16 Q Was it more than an arm distance away from
17 you?

18 **A Arm's reach?**

19 Q Yes, sir.

20 **A Like he could have touched me if he**
21 **reached his arm out?**

22 Q Yes, sir. Could he touch you?

23 **A Huh-uh. It was, it was close like that,**
24 **but it wasn't to where like, because he had the gun**
25 **pointed at me so the gun wasn't touching me, so.**

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1 Q When he approached, was the gun already
2 out when he was approaching you?

3 **A Yes.**

4 Q We haven't spoken about his ankle. Did
5 Dianti ever mention anything else about his injuries
6 to you?

7 **A Can you repeat that?**

8 Q Did Dianti mention anything else about any
9 other injuries to you?

10 **A No, sir.**

11 Q Let me just ask you. In terms of
12 Dianti's -- and this is going to sound like a weird
13 question -- but prior to this incident was Dianti
14 ever able to dunk a basketball on a ten-foot goal?

15 **A He probably, he can touch rim I believe.**

16 Q How about now when you guys play? Can he
17 still touch the rim?

18 **A I, I actually don't know. He ain't tried**
19 **it.**

20 MR. BENNETT: That's all I have.

21 FURTHER EXAMINATION

22 BY MS. MILLER:

23 Q One followup based on the questions you
24 just asked. Mr. Whitehead, just so that the record
25 is clear, when I spoke to you yesterday did I say

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1 the phrase swallowed to you?

2 **A No, no.**

3 Q Is that a phrase that you told to me?

4 **A Yes.**

5 Q Did I at any point yesterday tell you what
6 to come to this deposition to say?

7 **A No, ma'am.**

8 Q Did I give you any buzz words to say?

9 **A No, ma'am.**

10 Q And when Mr. Early, Dianti, got out of the
11 Jeep was the Jeep still moving?

12 **A Yes.**

13 Q So he jumps out, and the Jeep is still
14 going straight ahead, correct?

15 **A Yes.**

16 Q No one is steering the Jeep, right?
17 You've got to speak up.

18 **A No. Yes, no one, no one was steering.**

19 Q And what made the Jeep stop?

20 **A The tree.**

21 Q How did the tree make the Jeep stop?

22 **A Oh, it impacted it.**

23 Q The Jeep impacted the tree?

24 **A Yeah. I mean the, the way impact, the car**
25 **impacted the tree.**

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1 MS. MILLER: Thank you. That's all I
2 have.

3 FURTHER EXAMINATION

4 BY MR. BENNETT:

5 Q And I'm sorry to do this, Mr. Whitehead.
6 I do have one followup. In terms of your, what
7 phone number -- when you met or spoke with
8 Ms. Miller did you do that in person?

9 **A The, when I first met her?**

10 Q Right. When you first, when you met with
11 her yesterday did you meet with her or --

12 **A Yes, yes. Wait. No, no, no, no.**

13 Q Let me be clear. When you spoke to her to
14 get prepared for this deposition --

15 **A Huh-uh, no, I didn't; I didn't. I'm**
16 **sorry.**

17 Q So did you do that over the telephone?

18 **A Yes.**

19 Q And did you use your phone to speak with
20 her?

21 **A Yes.**

22 Q Was there anybody there with you when you
23 spoke with her?

24 **A No.**

25 Q What was the phone number you used to

<p style="text-align: right;">61</p> <p>1 contact Ms. Miller?</p> <p>2 A I actually don't have a phone number. I</p> <p>3 was on -- what it -- it was actually on Zoom.</p> <p>4 Q On Zoom?</p> <p>5 A Yeah. I don't have a phone number, so.</p> <p>6 Q And if it was on Zoom what computer were</p> <p>7 you using or what device were you using to access</p> <p>8 it?</p> <p>9 A I was using a iPhone. It has the email on</p> <p>10 it.</p> <p>11 Q Whose iPhone was it?</p> <p>12 A I think it's my friend's iPhone.</p> <p>13 Q You think it was your friend's iPhone?</p> <p>14 A Yeah. I don't know whose phone it is.</p> <p>15 They say it's, you know, whoever. Well, if somebody</p> <p>16 tells me it's theirs I just go with it's theirs.</p> <p>17 Q What friend did you get the iPhone from?</p> <p>18 A It's one of my home, homeboys. Well, good</p> <p>19 friend.</p> <p>20 Q What's his name?</p> <p>21 A No, I didn't get it from him. He, he</p> <p>22 still got the phone. I was just using it.</p> <p>23 Q Right, right. But the one that you</p> <p>24 borrowed, who, what's your friend's name?</p> <p>25 A Anthony.</p>	<p style="text-align: right;">63</p> <p>1 are no typos.</p> <p>2 You can't change your testimony, but you</p> <p>3 can fix anything that is inaccurate if you want</p> <p>4 to. You don't have to, but you have a choice.</p> <p>5 Would you like to read it, or would you not</p> <p>6 like to read it? It is up to you.</p> <p>7 THE WITNESS: I mean I don't have to.</p> <p>8 MS. MILLER: You don't have to. Sounds</p> <p>9 like he does not want to read and sign.</p> <p>10 THE WITNESS: Is it important?</p> <p>11 MS. MILLER: It's up to you. I mean</p> <p>12 it's --</p> <p>13 THE WITNESS: I don't know about this</p> <p>14 stuff.</p> <p>15 MS. MILLER: You can look at it and just</p> <p>16 make sure it's accurate. It's up to you.</p> <p>17 I'm not advising you. It's really your</p> <p>18 choice.</p> <p>19 MR. BENNETT: Mr. Whitehead, I know</p> <p>20 sometimes on opposite sides you hear from</p> <p>21 attorneys, but it is truly your decision. It's</p> <p>22 your right to do. So neither one of us are</p> <p>23 going to tell you don't use your right or use</p> <p>24 your right, so.</p> <p>25 THE WITNESS: I just want to make sure I'm</p>
<p style="text-align: right;">62</p> <p>1 Q And his last name?</p> <p>2 A I, I think it's Whitaker.</p> <p>3 Q And in terms of how long, do you know how</p> <p>4 long the conversation lasted?</p> <p>5 A It was short, not, not even 30 minutes I</p> <p>6 don't think. After I had told, told my, what</p> <p>7 happened it was over.</p> <p>8 Q Do you think it was more than 20 minutes?</p> <p>9 A I'm not sure. I can't, can't recall.</p> <p>10 Q But you don't think it lasted more than 30</p> <p>11 minutes?</p> <p>12 A No, it didn't.</p> <p>13 MR. BENNETT: That's all that I have.</p> <p>14 Thank you, thank you very much for your time</p> <p>15 today, Mr. Whitehead. I do appreciate you</p> <p>16 being patient with us with this. I wanted to</p> <p>17 say thank you.</p> <p>18 MS. MILLER: Do you want to give him the</p> <p>19 opportunity? Mr. Whitehead, you have the</p> <p>20 opportunity to read your deposition once the</p> <p>21 court reporter makes the transcript of it.</p> <p>22 So she types it out. You, because you were</p> <p>23 the witness that was deposed, have the</p> <p>24 opportunity to look at the deposition to</p> <p>25 make sure that it's accurate and that there</p>	<p style="text-align: right;">64</p> <p>1 not missing anything, like missing, you know,</p> <p>2 that I got to complete or finish it with this.</p> <p>3 But thank you, thank you.</p> <p>4 (It was stipulated and agreed by and</p> <p>5 between counsel for the respective parties and</p> <p>6 the witness that the signature of the witness</p> <p>7 to the deposition be waived.)</p> <p>8 (Deposition concluded at 3:30 p.m.)</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

1 CERTIFICATE OF COURT REPORTER
2 G E O R G I A
3 FULTON COUNTY:

4 I hereby certify that the foregoing
5 transcript was reported as stated in the caption,
6 and the questions and answers thereto were reduced
7 to writing under my direction; that the foregoing
8 pages 1 through 64 represent a true, complete, and
9 correct transcript of the evidence given upon said
10 hearing.

11 I certify that I am not disqualified for a
12 relationship of interest under O.C.G.A.
13 9-11-28(c); I further certify that I am not of
14 kin or counsel to the parties in the case; I am
15 a Georgia Certified Court Reporter here as a
16 representative of Deb Puckett & Associates; I
17 was contacted by Deb Puckett & Associates to
18 provide court reporting services for this
19 deposition; I will not be taking this
20 deposition under any contract that is
21 prohibited by O.C.G.A. 15-14-37(a) and (b) or
22 Article 7.C of the Rules and Regulations of the
23 Board; and by the attached disclosure form I
24 confirm that Deb Puckett & Associates is not a
25 party to a contract prohibited by O.C.G.A.
15-14-37 or Article 7.C of the Rules and
Regulations of the Board.

17 This, the 20th day of January, 2023.

19 Cathey H. Sutton, B1354

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